

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTHONY B. NELSON,

Plaintiff,

-against-

Case No.
18-CV-11413

DIANE ARGYROPOULOUS, PHILIP
ARGYROPOULOUS, CHRIS ORSARIS, ALEX
LETTAS, VICTORY AUTO GROUP, LLC,
SPARTAN AUTO GROUP, LLC, VICTORY
MITSUBISHI, MITSUBISHI NORTH AMERICA,

Defendants.
-----x

55 Hudson Yards
New York, New York

September 13, 2019
9:45 a.m.

DEPOSITION of the
Plaintiff, ANTHONY B. NELSON, taken by the
attorneys for their respective parties,
pursuant to Notice, held at the above-noted
time and place, before Alison Dunne, a
Shorthand Reporter and Notary Public of
the State of New York.

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A P P E A R A N C E S :

MILBANK LLP
Attorneys for Plaintiff
55 Hudson Yards, 33rd Floor
New York, New York 10001

BY: EMILY LILBURN, ESQ.
and MARIA ORTIZ, ESQ.

STEPHEN D. HANS & ASSOCIATES, P.C.
Attorneys for Defendants
Diane Argyropoulous, Philip
Argyropoulous, Chris Orsaris, Alex
Lettas, Victory Auto Group, LLC,
Spartan Auto Group, LLC, and Victory
Mitsubishi
45-18 Court Square West
Suite 403
Long Island City, New York 11101

BY: STEPHEN D. HANS, ESQ.

SEGAL McCAMBRIDGE SINGER & MAHONEY, LTD.
Attorneys for Defendant
Mitsubishi North America
850 Third Avenue, Suite 1100
New York, New York 10022

BY: ANDREW P. KATES, ESQ.

Also Present:

DIANE ARGYROPOULOUS
PHILIP ARGYROPOULOUS
CHRIS ORSARIS

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IT IS HEREBY STIPULATED AND
AGREED by and between the attorneys for the
respective parties hereto that the sealing,
filing and certification of the transcript of
the within examination before trial be, and
the same hereby are waived.

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IT IS FURTHER STIPULATED AND
AGREED that said transcript may be signed and
sworn to before any Notary Public or
Commissioner of Deeds with the same force and
effect as if signed and sworn to before an
officer of this Court.

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IT IS FURTHER STIPULATED AND
AGREED that all objections, except as to the
form of the questions, are reserved to the
time of the trial.

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1
2 MR. HANS: Can I have these
3 marked, please.

4 (Whereupon, at this time, the
5 reporter marked the above-mentioned
6 documents as Defendants' Exhibits A
7 through N, respectively, for
8 identification.)

9 A N T H O N Y B. N E L S O N, the
10 Plaintiff herein, residing at 12B Broun
11 Place, Bronx, New York 10475, after
12 having been first duly sworn by a Notary
13 Public of the State of New York,
14 testified as follows:

15 EXAMINATION BY STEPHEN D. HANS, ESQ.:

16 Q State your name for the record,
17 please.

18 A Anthony B. Nelson.

19 Q State your address for the
20 record, please.

21 A 12B Broun Place, Bronx, New York
22 10475.

23 Q Mr. Nelson, have you ever
24 testified in a deposition, a setting like this
25 before in your life?

1 A.B. Nelson

2 A Yes, I have.

3 Q In what kind of a case did you
4 testify in?

5 A A Title 7 case.

6 Q Were you a party in that case or
7 not? Were you a plaintiff or a defendant?

8 A I was a plaintiff.

9 Q Who did you sue?

10 A Telecommunication Resources.

11 Q When was that?

12 A Probably ten years ago.

13 Q Do you have any papers or any
14 notations to be able to identify the docket
15 number of that case?

16 A No, I don't. I would have to
17 look for it. I don't know if I have it or
18 not. It's ten years ago.

19 Q In what court was it in? Was it
20 in New York?

21 A 500 Pearl Street.

22 Q It was in the Southern District?

23 A Southern District, yes.

24 Q The company that you sued, what
25 was the name?

1 A.B. Nelson

2 A Telecommunication Resources.

3 Q Were you the only plaintiff?

4 A Yes.

5 Q What did you sue them for? Did
6 you sue them for discrimination?

7 A Yes.

8 Q How did that case resolve?

9 A How did it resolve? It was
10 settled.

11 Q There was a settlement?

12 A It was settled, yes.

13 Q Do you have any papers relating
14 to the settlement?

15 A No, I don't. I would have to
16 look, but like I said, it's ten years ago.

17 Q Other than that case, is there
18 any other time that you testified in a
19 deposition?

20 A There was another case ten years
21 prior to that. I don't remember if it was a
22 deposition. It's too long ago. Maybe it was
23 twenty years ago.

24 Q Other than what you cannot
25 remember in that case, is there any other time

1 A.B. Nelson

2 that you --

3 A No, sir.

4 Q One of the things I should
5 instruct you on is, even though you know an
6 answer to a question that I am asking, you
7 have to give me the courtesy and I will give
8 you the courtesy back of waiting for me to
9 finish asking the question and then when you
10 are testifying, I will not interrupt you.
11 Okay? Do you understand that?

12 A Yes.

13 Q If you don't understand a
14 question that I ask you today, I would ask you
15 to ask me to either repeat it or explain what
16 I mean or whatever way that you can understand
17 I will do, but I will wait for the answer and
18 you will wait for the question.

19 A Yes.

20 Q Are you under any medication or
21 drugs right now that would affect your ability
22 to testify today?

23 A No. I am under medication, but
24 not to affect my ability.

25 Q What medication are you on?

1 A.B. Nelson

2 A For diabetes.

3 Q Have you checked your blood sugar
4 level for today at all?

5 A No, I haven't.

6 Q Do you feel that you are
7 physically able to testify today with truthful
8 answers?

9 A Yes.

10 Q With whom do you reside at the
11 address that you have given?

12 A I reside with myself.

13 Q Is there anybody else that
14 resides with you?

15 A No.

16 Q Can you tell me your education
17 level, where you went --

18 A Two years of college. I went
19 to --

20 Q Again, Mr. Nelson, just allow me
21 to finish my question because there's more
22 that I was going to say. Go ahead, sir.

23 A I went to -- well, it's New York
24 Tech now, but it was Brooklyn Community at the
25 time.

1 A.B. Nelson

2 Q Was there any major that you had,
3 anything that you studied? Was there any
4 emphasis in any one --

5 A Automotive engineering.

6 Q Did you get an associate's degree
7 from that college?

8 A I did not get a degree from that
9 college, no.

10 Q The name of the college was what?

11 A Brooklyn Community. It's now
12 called New York Tech.

13 Q Why did you not get a degree from
14 that after two years?

15 A I believe I might have gone on
16 into a different related business and I just
17 did not get it.

18 Q What business was that?

19 A Working on vehicles.

20 Q When you say working on vehicles,
21 do you mean being a car mechanic?

22 A Something like that, yes.

23 Q Why don't you tell me what
24 something like that means? Just tell me
25 exactly what you did?

1 A.B. Nelson

2 A Exactly what I did?

3 Q Yes. When you left --

4 A Right.

5 Q Please, sir. I'm going to keep
6 reminding you. You have to let me finish the
7 question.

8 A Sorry.

9 Q When you left Brooklyn Community,
10 you left there before you got a degree and you
11 went to work in the automotive business; is
12 that correct?

13 A Yes.

14 Q Was it as a car mechanic? You
15 tell me what it was?

16 A Yes, a car mechanic.

17 Q Who did you work for?

18 A I worked for Tony Corallo
19 (phonetic).

20 Q Tony Corallo is an individual,
21 correct?

22 A Yes, he is.

23 Q Did you work for him or a
24 business that he owned?

25 A I worked for him and his business

1 A.B. Nelson

2 that he owned.

3 Q What was the name of his
4 business?

5 A Well, he had some different gas
6 stations and he also had top fuel dragster, a
7 race car.

8 Q Do you have this gentleman's
9 contact information?

10 A No.

11 Q How long did you work for him?

12 A I don't recall. That's a very
13 long time ago.

14 Q After you worked for him, did you
15 go to work for anybody else?

16 A I had jobs, yes. I worked.

17 Q Please tell me the jobs that you
18 had? Let us start from the beginning. When
19 did you go to work for the fellow named Tony?
20 What year was that?

21 A Probably somewhere in the late
22 70's, somewhere around there.

23 Q Let us take the decade of the
24 80's. Where did you work?

25 A In the 80's?

1 A.B. Nelson

2 Q Anywhere from 1980 to 1990?

3 A I was in transportation. I
4 worked for my family's business and then I
5 went into business for myself. I bought
6 trucks, interstate transportation-type
7 vehicles.

8 Q What was the name of your
9 business?

10 A The name of my business?

11 Q Yes. You said you went into
12 business for yourself. Did it have a name?

13 A I worked under -- my vehicles
14 were underneath -- I run under my broker's
15 authority. I run under their authority and
16 that was Gamble out of Orange, California.

17 Q Did the business that you ran
18 with your trucks, did it have a business name?

19 A I was doing business as Tony
20 Nelson. There's no name. The owner/operator
21 is Tony Nelson, but we are allowed to run
22 under other people's ICC. If you don't have
23 authority, you can run under someone else's
24 ICC, Interstate Commerce Commission authority.
25 The name was Gamble. Sometime after that I

1 A.B. Nelson

2 went to work -- when I worked for my cousin,
3 it was Schneider National, but for me that
4 was -- I worked underneath the authority of my
5 broker's.

6 Q How long did you work in the
7 interstate vehicle business under Mr. Gamble?
8 How long did you do that?

9 A Until he went out of business.

10 Q What year was that?

11 A Somewhere around '93 or something
12 like that.

13 Q Who did you go to work for after
14 that?

15 A Donco Transportation.

16 Q Sorry?

17 A Donco, D-O-N-C-O.

18 Q Where are they located?

19 A They're located in Oklahoma City.
20 They also have a hub in Atlanta, Georgia.

21 Q What did you do for them?

22 A The same thing, you know,
23 refrigerated express, foods.

24 Q When you say the same thing, what
25 do you mean?

1 A.B. Nelson

2 A The same thing that I was doing.

3 Q What was that thing?

4 A Produce, food, you know, food
5 that goes from state to state. If you have
6 produce, it goes from California -- it goes
7 from California and comes to New York and it
8 might go to Maryland. It might go, you know,
9 depending on where.

10 Q So you were transporting food?

11 A Yes.

12 Q How long did you work for Donco?
13 D-O-N-C-O is the spelling?

14 A Donco Carriers.

15 Q Do you know if they are still in
16 business?

17 A No, they're not.

18 Q How long did you work for Donco
19 Transportation?

20 A A few years I was there.

21 Q That was in the 90's; is that
22 correct?

23 A Yes.

24 Q After you left Donco, where did
25 you go work?

1 A.B. Nelson

2 A Let me see. That's a good
3 question because we're talking like thirty-
4 something years ago now.

5 Q Actually, I'm talking about in
6 the 90's.

7 A Well, it's twenty-seven years
8 ago.

9 Q After Donco, I'm interested in
10 your jobs.

11 A I don't recall this very second.

12 Q Do you have anything at home that
13 would be able to help you recollect who you
14 worked for?

15 A It's possible, but I'm not going
16 to say that I do.

17 Q Between the early 90's and the
18 time you went to work for Victory, do you
19 remember any one employer that you worked for?

20 A Sure. I worked for East
21 Brunswick GMC Buick Pontiac on Route 18. I
22 worked at Chevrolet Saturn.

23 Q Let us go a little slower. The
24 Eastern --

25 A East Brunswick. It's a town in

1 A.B. Nelson

2 New Jersey off of Route 18.

3 Q That's a car dealership?

4 A Yes, it is.

5 Q What did you do there?

6 A Sales.

7 Q How long did you work there?

8 A I was there until he opened up
9 his new store in New York City, so I was there
10 maybe a year or so.

11 Q When you left there, where did
12 you go?

13 A Chevrolet Saturn in New York,
14 which was, I think it was nicknamed the Harlem
15 Auto Mall. That's also gone.

16 Q That was in Manhattan?

17 A Yes.

18 Q How long did you work there?

19 A Maybe about a year -- about a
20 year.

21 Q After you left Chevrolet, where
22 did you go work?

23 A I don't recall.

24 Q I see you're looking at your
25 counsel, which is fine. If you need to take a

1 A.B. Nelson

2 break and talk to your attorney, you're
3 perfectly welcome to do that, but when a
4 question is open, you cannot look to your
5 counsel for help in the answer. Do you
6 understand that?

7 A Uh-huh.

8 Q I'm sorry?

9 A Excuse me?

10 Q Do you understand what I just
11 said?

12 A What's that?

13 Q When a question is asked of you
14 and you are not sure of it, it is improper for
15 you to look at your attorney for help in
16 answering that question. Do you understand
17 those instructions?

18 A Okay.

19 MS. LILBURN: Unless you are not
20 sure whether or not it is privileged, a
21 privileged issue.

22 THE WITNESS: Well, I wasn't
23 sure, so that's why I looked.

24 MS. LILBURN: If you don't
25 understand the question, you can let Mr.

1 A.B. Nelson

2 Hans know.

3 Q All I'm simply trying to ask you
4 is after you left Chevrolet to the time you
5 left for the Victory, the names of your
6 employers that you worked for between whatever
7 time that was in the 90's until the time you
8 worked for Victory?

9 A Let me see. In the 90's -- can I
10 go backwards now --

11 Q You can go backwards or forwards,
12 whatever suits you.

13 A In the 90's after I liquidated my
14 last piece of equipment, I went to work for a
15 friend of mine, DMP Contracting. He asked me
16 to come to work for him. I'm also a
17 specialist in moving heavy equipment,
18 specializing in oversize, so I went to work
19 for him. I worked there for three years.
20 That was the Beachwood case, DMP Beachwood.

21 Q Is there anybody else? Anybody
22 else that you remember?

23 A I don't remember.

24 Q So you don't remember who you
25 worked with after the Chevrolet place and

1 A.B. Nelson

2 before the Victory, before the Victory job?

3 A After Chevrolet, okay, which was
4 the recession, after Chevrolet I went to work
5 for Telecommunication Resources. I stepped
6 away from the car business.

7 Q After Telecommunication, did you
8 go to work for Victory?

9 A After Telecommunication?

10 Q Yes.

11 A Well, Victory came after
12 Telecommunication. I'm not saying directly
13 after, but after.

14 Q Is there anything in between --

15 A I'm trying to remember right now.

16 Q If you don't remember, you can
17 say that.

18 A Well, I don't recall.

19 Q Are you employed today?

20 A Right now?

21 Q Not right this minute. Today you
22 are at a deposition. I'm asking you if you
23 were generally employed yesterday, tomorrow or
24 Monday?

25 A I'm not employed right now.

1

A.B. Nelson

2

Q So you are unemployed?

3

A Yes.

4

Q Have you had any job --

5

A Yes. Sorry.

6

Q Have you had any job since the

7 time you left Victory?

8

A Yes.

9

Q What jobs have you had?

10

A I left Victory and I worked for
11 Toyota for about six months.

12

Q When you say Toyota --

13

A Toyota, Citywide Toyota.

14

Q Where is Citywide?

15

A It's about two miles from

16

Victory.

17

Q What did you do for them?

18

A Sell cars.

19

Q How long did you work for Toyota?

20

A About six months.

21

Q Why did you leave there?

22

A I left there because the manager

23

there -- they get a lot of foreign people that

24

come in there and there was a language barrier

25

situation, so even though I was making nice

1 A.B. Nelson

2 money there, a lot of times I couldn't get a
3 lot of customers because they're always
4 calling for somebody that was a bilingual
5 salesperson.

6 Q Did you leave there voluntarily
7 or involuntarily?

8 A You can say involuntarily. We
9 sat down and talked about it. I really wanted
10 to speak about it, but I just thought at the
11 time -- I just thought -- that's how he felt
12 and I just -- I just left, you know. I felt
13 that I wasn't selling enough cars because I
14 was not bilingual and so be it. I left. That
15 gave me time to focus more on this right now.

16 Q So it was an involuntary
17 departure. They asked you to leave?

18 A They asked me to leave and I
19 could have, more than likely, you know -- they
20 asked me to leave and I left.

21 Q Have you been employed anywhere
22 else since that time?

23 A No. I'm unemployed right now.

24 Q I want to get into this case that
25 you are here today for. Before we start

1 A.B. Nelson

2 getting into the case, what are you suing
3 Victory for?

4 A Age discrimination, racial
5 discrimination, hostile work environment, wire
6 fraud. I don't have the papers in front of
7 me, but I think you have most of it.

8 Q I'm going to show you what was
9 marked as Exhibit A and that appears to be an
10 EEOC intake questionnaire dated September 21,
11 2017; is that correct?

12 A Yes.

13 Q Did you fill this out around
14 September 21, 2017?

15 A Yes, I did.

16 Q I also want to show you what has
17 been marked as Exhibit B, which is an EEOC
18 complaint, as well; is that correct, Mr.
19 Nelson?

20 A Yes, sir.

21 Q If you notice the date on Exhibit
22 B, I believe there's a June date on that?

23 A Yes.

24 Q June 2018; is that correct?

25 A Yes.

1 A.B. Nelson

2 Q The intake questionnaire which is
3 Exhibit A is dated September 2017. Can you
4 tell me and explain to me why there were two
5 different filings at the EEOC, one in 2017,
6 and that was only a questionnaire, and then in
7 2018 you actually filed the complaint?

8 A Okay. When you go to the EEOC
9 and when you go there, you can fill out the
10 questionnaire. They give you, I believe, so
11 many days -- I believe they give you 300 days.
12 They give you close to probably maybe
13 three-quarters of a year or whatever. There
14 is an expansion in time that you can move
15 forward with your complaint. What happened is
16 I went on the 21st immediately after what
17 happened, and I went there. Now, the
18 investigator, every time I would call, because
19 for months I was calling up the EEOC and I was
20 leaving messages on the number that he gave
21 me, and I never, never, never got a response.
22 To make a long story short, I got on the
23 train. I took the two-hour ride down there
24 and it turned out that he had retired and
25 nobody put me with -- nobody took my folder

1 A.B. Nelson

2 and handed it to another investigator. They
3 didn't do it. What happened was I was still
4 within the grace period. They gave me another
5 investigator.

6 Now, Exhibit B, they wanted to
7 take the complaint then and so although I had
8 that grace period, I had not put together the
9 actual complaint, and they allow you that.
10 You're allowed to make a complaint and they
11 give you an investigator and it just say
12 there. The reason it sat there is because
13 nobody explained to me until I actually went
14 back down there in person.

15 Q So what you are saying is, and
16 correct me if I am wrong, when you say what
17 happened -- when you refer to what happened,
18 you're talking about what happened at Victory,
19 with you and Victory, correct?

20 A No, what happened, because there
21 are two separate intake dates we're talking
22 about, I thought.

23 Q Right, but when you went there in
24 September 2017, had you been discharged from
25 Victory as you claim you were?

1 A.B. Nelson

2 A Yes.

3 Q Was that after the specific
4 incident at the Sunoco station with Mr.
5 Orsaris?

6 A Yes.

7 Q And you went down to the EEOC in
8 September 2017?

9 A Yes, sir.

10 Q And nothing was done and you
11 finally got around to it or they got around to
12 it or you mutually got around to it and that
13 was not until June of 2018 that you sat down
14 with somebody and you filed Exhibit B; is that
15 correct?

16 MS. LILBURN: Objection.

17 Q Is that correct?

18 A I'm sorry.

19 Q It wasn't until June that you
20 finally were able to identify someone and file
21 Exhibit B; is that correct?

22 A Yes, that's true.

23 Q Did you fill out any other forms
24 in 2017 other than the intake questionnaire?

25 MS. LILBURN: Objection. Form.

1 A.B. Nelson

2 Q Did you write anything else to
3 the EEOC? Did you fill out any paper or put
4 anything on paper other than Exhibit A in
5 2017?

6 A Yes, I did.

7 Q Do you have a copy of that?

8 A No, I don't.

9 Q Why don't we identify what it is
10 that you filled out in September 2017?

11 A This particular form here is two
12 pages. I'm going to finish because I don't
13 want you to look for something you're not
14 going to find. What happened was when this
15 was filed, one of the pages was missing. I
16 went to the fifth floor over in 500. I went
17 upstairs to what I believe is the room where
18 they have all the records, the records room.
19 I was going to refile the case, but because of
20 the fact that all the information was in the
21 June -- so we did not bother to go through all
22 of that.

23 Q Mr. Nelson, that is not what I'm
24 asking.

25 A What are you asking?

1 A.B. Nelson

2 MS. LILBURN: Can I just clarify
3 the record. When he says this paper, he
4 is referring to Exhibit A.

5 Q Let us go back a little bit and
6 we will start over. In September 2017, when
7 you filled out Exhibit A, did you fill out or
8 complete any other information on paper to the
9 EEOC, other than what is on Exhibit A? Was
10 there anything additional that was filled out,
11 completed, written down by you other than
12 Exhibit A?

13 A Yes, sir.

14 Q Where is that?

15 A I believe that I might have that.

16 Q Why don't we identify what that
17 is?

18 A The second page that belongs to
19 this page which was accidentally not filed.

20 Q If it was not filed, you say that
21 you may have it; is that correct?

22 A I may be able to produce it
23 because I believe that I have it, yes, sir.

24 Q Are you aware that in the
25 discovery demands that were served upon you

1 A.B. Nelson

2 and which you replied, that all EEOC
3 information was requested of you, and you
4 actually gave the defendant Exhibit A, but you
5 did not give the second page that you are
6 talking about?

7 A Okay. Can I answer that?

8 Q I'm waiting for an answer.

9 A The partial help that I am
10 getting from the New York LAG Organization, I
11 asked the lawyer about this, you know, and
12 then I went over to see about it. I wanted to
13 refile the whole case. They thought, because
14 everything was in --

15 MS. LILBURN: Wait. Did the
16 lawyer tell you this?

17 THE WITNESS: What?

18 MS. LILBURN: Are you about to
19 speak to what a lawyer told you? Is
20 this from counsel at NY LAG?

21 THE WITNESS: Yes.

22 Q As your counsel noted, I asked
23 you not to tell me what any lawyers that were
24 helping you told you, but here is my question.
25 I am not interested in what LAG said or did

1 A.B. Nelson

2 not say, even if I could find that out, which
3 I can't. What I am interested in is you were
4 served with a discovery demand and it was very
5 specific. It asks for all EEOC papers. I can
6 take the time to show you the demand, but you
7 actually replied and in the document demand
8 and in the interrogatories you produced
9 Exhibit A. It is now in this deposition that
10 you are now telling me that there was a second
11 page filled out by you back in 2017 of which
12 you did not produce in the discovery. I am
13 simply asking you why not and how soon can I
14 get it?

15 MS. LILBURN: Objection.
16 Compound.

17 Q Go ahead.

18 MS. LILBURN: You can go ahead
19 and answer.

20 A What was the question again? I
21 want to make sure I'm answering the right
22 question. How soon can you have it, you said?

23 Q No. I told you that in a
24 discovery demand, which was given to you
25 months ago by my firm, you were asked to

1 A.B. Nelson

2 produce all documents relating to the EEOC
3 filing. You produced those documents. You
4 and I met together over those documents. You
5 had plenty of time to produce all relevant
6 documents. The only document that you
7 produced was Exhibit A. We are now at this
8 deposition and I am finding out for the very
9 first time that there is a second page to
10 Exhibit A, which you have and I do not have,
11 and I want to know why not?

12 A It's probably an oversight. I
13 made a mistake. I am not in the lawyer
14 business.

15 Q Don't you think that an EEOC
16 filing on a big case of discrimination is
17 important and it should not be an oversight?

18 MS. LILBURN: Objection.

19 Q You can answer.

20 A If I did not think it was
21 important, we would not be sitting here today.

22 Q Why didn't you produce the second
23 page?

24 A Because it was a mistake.

25 Q A mistake in what way?

1 A.B. Nelson

2 A It was a mistake because you did
3 not get it and I did not put it in, not that I
4 did not put it in on purpose, but I didn't
5 want to -- I am not here to pull the wool over
6 your eyes. That's not who I am. I am here
7 because of this and that was an honest to God
8 mistake and that's that.

9 MS. LILBURN: Do you have the
10 second page of this?

11 THE WITNESS: I think I do have
12 it.

13 MS. LILBURN: We will get you the
14 second page.

15 MR. HANS: I would like to
16 reserve my right subject to the
17 magistrate's approval to depose Mr.
18 Nelson on the second page since it was
19 not produced in discovery.

20 MS. LILBURN: Off the record.

21 (A discussion was held off the
22 record.)

23 Q Mr. Nelson, I am going to show
24 you what was marked as Exhibit C. I believe
25 that is the complaint that you filed in this

1 A.B. Nelson

2 action; am I correct?

3 A Yes.

4 Q Is there anything in that
5 complaint, and please take a look at it, did
6 you review that complaint before you came in
7 here today?

8 A As in -- I don't understand your
9 question.

10 Q Did your eyes set on this
11 document and did you read it and look at it in
12 any way before you walked into this room
13 today?

14 A Maybe a few days ago, but not
15 this morning.

16 Q Whenever you did?

17 A Yes, of course I have.

18 Q Is there anything in this
19 complaint, as you sit here today with your
20 sworn testimony under oath, that you want to
21 amend or modify in that complaint?

22 A No. Everything in this complaint
23 is up to snuff.

24 Q Are the statements set forth in
25 that complaint true and accurate today?

1 A.B. Nelson

2 A True and accurate?

3 Q Today?

4 A Today?

5 Q Correct.

6 A Yes, sir, correct.

7 Q You named Alex Lettas as a
8 defendant in this case; is that correct?

9 A Yes, sir.

10 Q If you turn to where they name
11 the defendants in Section B, you have Diane
12 Argyropoulous, Philip Argyropoulous and Chris
13 Orsaris, but you did not name Alex Lettas in
14 the complaint.

15 A Where is Section B?

16 Q It's on Pages 2 and 3. Let me
17 help you out with this. On Page 2 it says
18 defendant one, defendant two and then
19 defendant three. You did not name Alex Lettas
20 at all in any of those spaces. I am wondering
21 was that also an oversight or a mistake?

22 A I guess that would be a mistake.
23 I believe there was only room to put three
24 names here, so I put the three names, but of
25 course Victory Mitsubishi and Mitsubishi North

1 A.B. Nelson

2 America is also missing, Spartan Auto Group
3 and the other entities are also missing, but
4 there was only space for three and I did not
5 fill these out, so that's the way it was
6 filled out.

7 Q I ask you to go down to Page 3
8 where it says causes of action federal claims.
9 Do you see where you have the box checked off
10 Title 7 of the Civil Rights Act. Do you see
11 that little checkmark?

12 A Yes.

13 Q You checked off race, black; is
14 that correct?

15 A African-American, black, yes.

16 Q Earlier in this deposition I
17 asked you why you were suing and you said
18 because of your race and age.

19 A Yes.

20 Q The question is, why didn't you
21 put age down when you put black?

22 MS. LILBURN: Objection.

23 A Because the document did not, for
24 some reason, the document did not have age.

25 Hold on. If you continue on to the next page,

1 A.B. Nelson

2 it does say age and it is checked off.

3 Q You're referring to the New York
4 State Human Rights Law?

5 A Okay. You're talking about where
6 it says Title 7 here; is that correct?

7 Q Yes.

8 A It continues on to the next page.

9 Q Where it says age discrimination?

10 A It says age discrimination and
11 it's checked off.

12 Q What is the basis of age
13 discrimination for you?

14 A What is the basis for age
15 discrimination?

16 Q What is the basis of your claim
17 of age discrimination?

18 A Age old remarks and things of
19 that nature.

20 Q Why don't you tell me what
21 remarks you're talking about and who said it?

22 A Being called Bill Cosby, Uncle
23 Ben, and things of that nature.

24 Q Let me interrupt you for a
25 second. Those statements that you are talking

1 A.B. Nelson

2 about support your race claim, correct?

3 A They also support the age claim,
4 too.

5 Q How do they support the age
6 claim?

7 A Because these are all old people
8 and it's also race, but why are you
9 identifying me with an old rapist who happens
10 to be a multi-millionaire, why would you, you
11 know, then call me Uncle Ben, call me Bill
12 Cosby for a year or two and, you know, making
13 other age-related remarks and stuff. Why?

14 Q What other remarks other than
15 Uncle Ben and the reference to Bill Cosby
16 support an age discrimination claim?

17 A We had a washed-up stripper come
18 in our store. We sell cars to strippers. We
19 sell cars to anybody. We had this woman come
20 in the store and he made the remark to me
21 would an old guy like you do her without a
22 raincoat on.

23 Q Who said that to you?

24 A Chris Orsaris.

25 Q Other than that comment, is there

1 A.B. Nelson

2 any other comment referring to age?

3 A There's been other comments
4 relating to me and somebody else who's old,
5 who's also my age there, you know, like grumpy
6 old men, and this and that and the other.

7 Q Let us take each one. Before we
8 go through each one, I cannot help notice that
9 none of these comments were in the
10 interrogatories, in your complaint, in the
11 EEOC filing. Is there any reason why we're
12 hearing about these comments for the very
13 first time today?

14 A The reason why is because you're
15 asking for it for the very first time today.
16 You did not, to my knowledge, ask anything in
17 the interrogatories about what was said or
18 anything. I don't remember -- I don't recall
19 that in your interrogatories.

20 Q You did not set any of these
21 comments out in your complaint or the EEOC
22 filing?

23 A In my complaint -- my complaint
24 is right here. It says -- it doesn't say
25 anything about where I'm supposed to put that.

1 A.B. Nelson

2 It just tells you to put whatever facts that
3 are here and there they are. Obviously I
4 figured you would expand on it later like you
5 are right now.

6 Q This is your complaint, sir.

7 A I understand.

8 Q Why don't we go through these
9 horrible statements of age discrimination or
10 the statements you heard about age. You said
11 these were comments. One you said that Mr.
12 Orsaris said to you, so tell me the others?

13 MS. LILBURN: Objection.

14 A Repeatedly -- you're saying the
15 others. Okay. There are numerous statements
16 or comments because it's two or three years
17 ago and I may not remember all of them. I
18 remember the ones the most that stuck out in
19 my mind. I am not going to remember word for
20 word. We're talking --

21 Q Mr. Nelson, you have sued my
22 client. You are claiming race discrimination
23 and age discrimination. You are now
24 supporting the age discrimination by your
25 testimony and there's nothing in your

1 A.B. Nelson

2 complaint and nothing in your EEOC filing of
3 incidents of age discrimination. As we sit
4 here today, and this is your case. My client
5 did not bring a case. My client is defending
6 the case. It is your obligation, if you want
7 to pursue this, to tell us or to put forth the
8 basis of your age discrimination, and if you
9 are saying it's based on comments to you, I'm
10 specifically asking you to identify the person
11 and the comment and when it was made. I want
12 you to support that claim. If you don't
13 remember, that's fine, too, but if you do
14 remember, I would like you to swear under oath
15 today what they were.

16 MS. LILBURN: Objection. Go
17 ahead.

18 A The gentleman sitting right here
19 next to you, Chris Orsaris, for a long period
20 of time he constantly referred to me as Bill
21 Cosby. Okay. I was referred to as Uncle Ben,
22 which maybe you need to be familiarized. You
23 would not tell a black woman Aunt Jemima. I
24 think they changed the box cover, so anyway,
25 that's the sort of stuff. It's very racial

1 A.B. Nelson

2 when you call somebody that.

3 Q I'm not talking about racial.

4 A Age? It's also age.

5 Q I'm talking about age.

6 A It's also age. Uncle Ben and
7 Bill Cosby are both -- the Uncle Ben logo for
8 the rice. You heard of Uncle Ben's Rice, sir?

9 Q You don't get to ask me
10 questions.

11 A I am just saying it. I want to
12 make sure you're familiar with the term Uncle
13 Ben, so that's why I am asking you.

14 Q You are just here to testify.
15 You don't get to ask me questions.

16 A Uncle Ben is the guy on the rice
17 box and to call somebody that is not only age,
18 but it's also a racial insult. It's both.

19 Q That is fine. That's your
20 testimony. This is your case. Would it be
21 correct to say that your age discrimination
22 complaint is based on those comments that
23 support the race discrimination, as well?

24 A Yes.

25 Q Do you have any others, other

1 A.B. Nelson

2 than those comments that are in your
3 complaint, do you have any other evidence of
4 age discrimination?

5 A Things were said like grumpy old
6 men referring to me and some other person, an
7 older salesperson there.

8 Q Who said that? Who said grumpy
9 old men?

10 A If I remember correctly, it was
11 one of the managers. It was this tall, skinny
12 guy. I can't remember his name. I believe
13 also Stavros Orsaris made mention to that
14 also.

15 Q When did Stavros Orsaris make
16 mention of it?

17 A Probably sometime in 2017.

18 Q You're using the word probably.
19 Do you recall a specific time and place where
20 Mr. Orsaris, Stavros Orsaris, said grumpy old
21 men?

22 A Time and place you said?

23 Q Time and place.

24 A The place is in the store that is
25 now Mitsubishi because there are two

1 A.B. Nelson

2 properties. It was in the store.

3 Q Is that one comment one time or
4 did he say this numerous times?

5 A It's been mentioned more than
6 once.

7 Q Other than Stavros Orsaris's
8 comment, did he refer to you as a grumpy old
9 man or just generally? Did he call you a
10 grumpy old man?

11 A Me and somebody else were called
12 that.

13 Q Anybody else who made age
14 comments other than that comment?

15 A Did anybody else --

16 Q Did anybody else besides Mr.
17 Orsaris?

18 A There was another manager. I do
19 not remember his name. I know that he came
20 there with another gentleman named Freddy at
21 the time, and he drove a silver Audi. He's a
22 tall fellow. I cannot recall his name.

23 Q So you do not remember the name,
24 but the one person that you can identify said
25 grumpy old men.

1 A.B. Nelson

2 A Yes.

3 Q Any other proof that you have of
4 age discrimination by my client?

5 A Any other proof?

6 Q Yes.

7 A No.

8 Q When did you first become
9 employed at Victory?

10 A I think it was Thanksgiving Day
11 or the day before -- in November 2015.

12 Q What was the position?

13 A Salesman, product specialist,
14 salesman.

15 Q Who hired you?

16 A I was hired -- the manager there
17 then was Gene Flourny (phonetic) or whatever.

18 Q Were any of my clients there when
19 you were hired?

20 A Yes.

21 Q What were you told when you were
22 hired as far as your compensation? What would
23 you be paid?

24 A It was supposed to be 20 percent
25 front end gross minus pack. There was no --

1 A.B. Nelson

2 there was nothing on the back. Some places
3 you get paid on the back, but it was just 20
4 percent on the front minus pack and that was
5 what the pay structure was supposed to be.

6 Q And that is your complete
7 understanding of that, correct?

8 A Yes.

9 Q Who told that to you? Who's the
10 person who said this is what you're going to
11 get paid?

12 A I would imagine that it might
13 have been Gene.

14 Q Did there come a time, and I
15 think it is in your complaint, that you did
16 not receive the compensation that you said you
17 should have received?

18 A Yes. That's in the complaint.

19 Q We will get into that in a little
20 while, but I want to know did you ever
21 complain about not receiving the appropriate
22 compensation?

23 A Yes.

24 Q To whom did you complain?

25 A The first time that I complained

1 A.B. Nelson

2 about it was to Gene and the finance manager
3 named Igor.

4 Q How many times did you complain
5 to them?

6 A A few times, you know. After I
7 saw the money, you know, a few times.

8 Q Did you send an email or any
9 writing about not receiving your appropriate
10 compensation?

11 A We were not emailing each other,
12 no.

13 Q Was there any writing that you
14 did?

15 A Any writing?

16 Q Any written memos, notes,
17 letters?

18 A There was a conversation at the
19 podium inside the store and that was that.

20 Q Do you have any proof that the
21 problems that you were having with
22 compensation were based on racial or age
23 discrimination or race or age reasons?

24 MS. LILBURN: Objection.

25 A Can you repeat that.

1 A.B. Nelson

2 Q Do you have any evidence that the
3 compensation -- we will get into the
4 compensation in a little while, but the
5 compensation problems that you were having, do
6 you have any evidence that those problems were
7 based on your race or your age?

8 A No. That's not, no.

9 Q You don't?

10 A No.

11 Q What were your hours at Victory,
12 generally speaking?

13 A The store opens up at 9:00 and
14 the way they schedule it, some nights you work
15 till 9 and some nights till 6, and on Sunday
16 it's basically a half a day.

17 Q Who was your supervisor?

18 A Who was my supervisor?

19 Q Name all your supervisors that
20 you can recall?

21 MS. LILBURN: Objection.

22 A Can I make a comment to that
23 statement?

24 Q No. You're supposed to just
25 answer the question.

1 A.B. Nelson

2 A There were so many of them that I
3 cannot remember all of them.

4 Q Tell us what you do remember.

5 A I had Gene Flourny. I had Igor.
6 He was a finance manager, but he was still a
7 manager. You had two people named Freddy.
8 One of them -- I can't. I don't remember his
9 last name. There were two Freddys there, so
10 you had Freddy. You had Shane Bacus.

11 Q These are supervisors of you,
12 correct?

13 A Floor managers, whatever you want
14 to call them, supervisors.

15 Q After Shane Bacus, who else?

16 A Shane Bacus, Stavros Orsaris,
17 Peter Orsaris, Ian -- not Ian. He's finance.
18 Ian is finance.

19 MS. LILBURN: Mr. Nelson named
20 ten individuals. If you're looking for
21 a list of everyone who was in a
22 supervisory role during the period that
23 he was employed, I think that your
24 clients can provide that to you.

25 MR. HANS: I have the right to

1 A.B. Nelson

2 ask him who he believes is his
3 supervisor.

4 MS. LILBURN: I think he answered
5 what he can recall.

6 Q Is there anybody else that you
7 can recall?

8 A In three years I saw thirty-eight
9 people. I had thirty different managers in
10 less than three years. I believe I was there
11 for two years and ten months. I don't know
12 the exact -- there is an abundance of people
13 going and coming, managers.

14 Q Did these managers work on the
15 floor at Victory?

16 A Yes.

17 Q You believe there was
18 approximately over thirty, you said the number
19 thirty-eight managers over the course of your
20 employment at Victory?

21 A Yes.

22 Q Were you directly reporting to
23 any one of those thirty-eight or was there
24 anyone in particular you reported to?

25 A You have two sides to the store,

1 A.B. Nelson

2 so sometimes report to other managers if
3 we're -- everybody is designated -- the
4 building is two properties, so we have
5 managers on one side and managers on the other
6 side. We do work with all of the managers,
7 whether it's both sides or not.

8 Q I'm asking you if you can
9 identify, as you sit here today, because this
10 is your case, who are the supervisors that you
11 were directly reporting to out of all the
12 thirty-eight supervisors? Who would you go to
13 to get approval for something or anything
14 else? Was there anyone in particular?

15 MS. LILBURN: Objection. So we
16 are referring to supervisors and
17 managers? Are you using them
18 interchangeably? What do you mean by
19 managers?

20 Q Is a manager a supervisor also,
21 Mr. Nelson?

22 A I don't know. I never really
23 heard that particular jargon in the automobile
24 business, supervisor.

25 Q The person that you reported to,

1 A.B. Nelson

2 the person that you needed approval for for
3 anything in Victory, the person that told you
4 what to do, those sort of people, how many
5 people that directly told you what to do or
6 you had to ask for approval on any particular
7 issue, who were those people?

8 A All thirty-eight of them.

9 Q All thirty-eight?

10 A Yes.

11 Q Was Alex Lettas one of those
12 supervisors?

13 A At one time, but Alex Lettas was
14 one -- he has worn many hats, so there were
15 times when he was a manager there and then
16 there were times when he was a buyer, a
17 purchaser of vehicles for the store, so Alex
18 is one that has worn about fifteen or twenty
19 hats in that organization.

20 Q Let's break that down. You said
21 he was at one time a manager or supervisor.

22 A Right.

23 Q Can you identify the time that he
24 was?

25 A I don't remember the exact time.

1 A.B. Nelson

2 Q You don't remember?

3 A No.

4 Q You have no idea?

5 A Right now I don't, no.

6 Q You said he wore many different
7 hats?

8 A Yes, that's true.

9 Q Can you list the different
10 positions he held at Victory that you can
11 recall?

12 A He purchased vehicles. He was a
13 vehicle purchaser. He was over -- sometimes
14 he would work on the floor. As a floor
15 manager, he's been on the floor. He also was
16 over the business development segment of that
17 business also, BDC, which is a separate entity
18 that brings business into the store, you know,
19 different things.

20 Q Up until the first EEOC issue
21 that you filed, Exhibit A, which was in
22 September of 2017, so from November of 2015
23 when you started at Victory, did you have any
24 issues or any complaints of discrimination on
25 the job, up to the time that you filed that?

1 A.B. Nelson

2 MS. LILBURN: Objection.

3 Q You can answer.

4 A When I first started there, there
5 was no racial discrimination and no jokes and
6 stuff. That did not exist because the parties
7 in this caption were not there yet.

8 Q Are you saying that Diane
9 Argyropoulous, Philip Argyropoulous, Chris
10 Orsaris and Alex Lettas were not there when
11 you started in November of 2015?

12 MS. LILBURN: Objection.

13 A Only Diane Argyropoulous and
14 Philip Argyropoulous were there.

15 Q When you say jokes and stuff,
16 what are you talking about when you say jokes
17 and stuff? You say other than jokes and
18 stuff, there was no discrimination. What
19 jokes and stuff are you talking about?

20 A Racial type, denigrating
21 conversations about people.

22 Q Who had those conversations? The
23 only time period I'm talking about right now
24 is November 2015 to September of 2017, that is
25 the only time period. You say there were

1 A.B. Nelson

2 racial jokes and stuff made, correct?

3 MS. LILBURN: Objection.

4 A Yes.

5 Q Can you tell me who made those
6 jokes and stuff?

7 A Alex Lettas most of the time
8 would make these types of jokes or statements.
9 I didn't mean to say stuff. I meant
10 statements.

11 Q I think before you said only the
12 two Argyropoulous people were there and not
13 Orsaris and Lettas. Now you're saying it was
14 Lettas that was making those comments?

15 MS. LILBURN: Objection.

16 Q Please clarify.

17 A Let me clarify that for you.
18 Okay. When I started there, Mr. Orsaris and
19 Mr. Lettas did not show up until about five
20 months later.

21 Q Let me get back to the jokes and
22 stuff or jokes and statements. The jokes
23 you're talking about, why do you call it a
24 joke, by the way?

25 A Some of them -- I'm not saying

1 A.B. Nelson

2 it's a joke, because it's not right to say
3 those kinds of things about people.

4 Q You just testified it was a joke.

5 MS. LILBURN: Objection.

6 A When you take your phone, for
7 instance, and you show people climbing the
8 wall, now we're talking about the Texas wall,
9 and that's supposed to be very entertaining
10 and very funny, look at this.

11 Q Who did that?

12 A Alex Lettas numerous amounts of
13 times and also when he would see a client come
14 in the store, okay, and he would look at them,
15 and I would notice that certain clients and
16 most of the business there, I would say about
17 75 percent of it is ethnic customers, you
18 know, customers that are non-white customers,
19 I'll just be frank. He would size them up or
20 judge them and say that they are in the
21 niggerative, meaning he took the word negative
22 and turned it into niggerative.

23 Q We are going to get to that
24 comment in your EEOC filing complaint. We
25 will get to those comments. What I'm saying

1 A.B. Nelson

2 is, up until the time you filed the complaint,
3 other than what was in the complaint, were
4 there any discriminatory issues other than
5 what is in the complaint before that from
6 November 2015, and what I hear from you is
7 there were jokes and statements, but that was
8 solely by Mr. Lettas, correct?

9 MS. LILBURN: Objection.

10 Q Mr. Lettas is the only one that
11 you are identifying, correct?

12 A And Chris Orsaris.

13 Q And Chris Orsaris are making
14 statements, is that it? Tell me what they are
15 doing.

16 MS. LILBURN: Objection.

17 A Uncle Ben remarks.

18 Q Other than what's in your
19 complaint?

20 A You're asking me -- I don't
21 understand. You're asking me one thing and
22 I'm telling you what they're doing.

23 Q I am saying other than what is in
24 your complaint. From November when you
25 started, and we will take one year, so

1 A.B. Nelson

2 November 2015 to November 2016, the one year.

3 Were there any statements or jokes by Mr.

4 Orsaris or Mr. Lettas?

5 A Yes.

6 Q Did you report any of those
7 statements to anybody?

8 A Did I report, no.

9 Q Did you say anything to them when
10 they were saying these comments?

11 MS. LILBURN: Objection.

12 A I asked Mr. Orsaris to stop
13 calling me those names, those things.

14 Q Are you saying Mr. Orsaris was
15 saying things directly to you in the year from
16 November 2015 to November 2016?

17 A He wasn't there in '15.

18 Q I am asking you. You started
19 November 2015, so from November 2015, November
20 to November, were there any discriminatory
21 remarks; yes or no?

22 A Yes.

23 Q By who?

24 A Chris Orsaris and Alex Lettas.

25 Q Other than those two individuals,

1 A.B. Nelson

2 were there any other remarks by anyone?

3 A Any other parties --

4 Q I'm asking for anybody.

5 A You mean anybody, even a
6 salesperson or anybody?

7 Q Anybody working for Victory?

8 A Anybody working for Victory?

9 Q Yes.

10 A No.

11 Q Were the comments by Mr. Orsaris
12 and Mr. Lettas, were they jokes or were they
13 mean-spirited? How did you take them?

14 A Mean-spirited, racially
15 discriminatory.

16 MS. LILBURN: Objection. Go
17 ahead. Continue.

18 A Mean-spirited, racially
19 discriminating.

20 Q Were they jokes or was it a mean
21 statement?

22 MS. LILBURN: Objection.

23 Q How did you interpret these
24 comments? Were they made in jest, in jokes,
25 or were they harse statements? How would you

1 A.B. Nelson

2 describe them?

3 A I would describe them as
4 disrespectful.

5 Q Disrespectful?

6 A Yes.

7 Q Do you know when Mr. Orsaris
8 started working at Victory?

9 A Mr. Orsaris started at Victory
10 sometime in the early part of 2016.

11 Q Up until November of 2016, you
12 heard some comments about race from the two
13 individuals you had identified. How often
14 were those comments made?

15 A Numerous amounts of time.

16 Q How often in a week?

17 A Between the two of them, it could
18 be four or five times a week.

19 Q Were they solely directed to you
20 or were they said in general?

21 A Well, if you're calling me Bill
22 Cosby, then you're talking to me. Obviously
23 it's directed at me.

24 Q I'm not talking about Bill Cosby
25 and Uncle Ben. Let's put that aside. I'm

1 A.B. Nelson

2 asking about other comments not in your
3 complaint. You're saying there were jokes and
4 statements. I asked you who and you
5 identified only two individuals, Mr. Orsaris
6 and Mr. Lettas.

7 A Yes.

8 Q You now said it happened numerous
9 times, correct?

10 A Yes.

11 Q And they were directed only to
12 you; is that correct?

13 MS. LILBURN: Objection.

14 A I don't know if he had -- no.
15 They weren't -- no, they weren't now that I
16 think about it.

17 Q Who were they directed to?

18 A Are you talking about the
19 comments?

20 Q Yes. Any racial comment.

21 A Comments and racial jokes or
22 anything, is that what you're saying?

23 Q Yes.

24 A Those statements were made to
25 other people also that worked there.

1 A.B. Nelson

2 Q Would you say it was an
3 atmosphere of comments like that that they
4 would make?

5 A It was an atmosphere created by
6 Mr. Lettas, mostly, and also Mr. Orsaris.

7 Q Are you saying the only racial
8 comments directed at you are the ones you put
9 in your complaint?

10 MS. LILBURN: Objection.

11 Q Yes or no? The Uncle Ben and
12 Bill Cosby comments.

13 A I'm not sure. I never heard him
14 call anybody else that. He referred to me as
15 that numerous times, only me.

16 MR. HANS: Move to strike.

17 Q That is not what I am asking you.
18 Please listen to my question. You say that
19 they used to use these comments at Victory. I
20 understand that. You said in general and not
21 to you and I understand that. Now I am
22 identifying you. I am saying that the only
23 comments, the racial comments that they would
24 direct at you would be the Uncle Ben and Bill
25 Cosby comments; is that correct, the ones you

1 A.B. Nelson

2 have in your complaint?

3 MS. LILBURN: Objection.

4 A The ones in my complaint -- are
5 you asking me if there are others than what is
6 in the complaint?

7 Q Absolutely.

8 A Okay.

9 Q Mr. Nelson, you seem to be
10 struggling with this question.

11 MS. LILBURN: Objection.

12 Q Can you tell me why you're
13 struggling with this question?

14 A Because I'm trying to think three
15 years back.

16 Q I'm also saying to you this is
17 your complaint. We did not fill this out.

18 A Of course.

19 Q Mr. Lettas, Mr. Orsaris, none of
20 them filled this complaint out. It was you
21 that filled this out. It was your opportunity
22 to put down on paper in the legal complaint
23 what somebody said that was discriminatory to
24 you and it does not seem like you held back.
25 You put the Uncle Ben and the Bill Cosby in

1 A.B. Nelson

2 there.

3 MS. LILBURN: Objection.

4 Q If there are others, tell me what
5 they were. If there's not and it's limited to
6 that, tell me that. It doesn't matter. I
7 just want to know what you are saying.

8 A Other than that, no.

9 Q You have those couple of comments
10 and that's the basis of the racial
11 discriminatory remarks, according to you
12 today, would you agree with that?

13 MS. LILBURN: Objection.

14 A To my recollection right now --

15 Q Take your time before you answer.
16 Please be certain. If there's something else,
17 tell it to me. Testify to it now.

18 A No, just these right here.

19 Q I just want to talk about Philip
20 Argyropoulous. By the way, is he there at
21 Victory all the time?

22 A He's there sometimes.

23 Q How often is he there?

24 A I'm not sure. I know he's there
25 every Saturday, but I know that he has another

1 A.B. Nelson

2 business that he does when he's not there.

3 Q So you are saying he only appears
4 there generally on Saturday?

5 A Generally on Saturday, yes, or
6 sometimes during the week, but very rarely
7 he's there.

8 Q Is he there every Saturday?

9 A Yes.

10 Q How many hours on Saturday?

11 A I don't know. He works in
12 another building.

13 Q Do you know for sure that he's
14 there every Saturday?

15 A Sure.

16 Q Did you see him?

17 A Yes.

18 Q Can you testify as to how many
19 hours he was there?

20 A I cannot testify to that because
21 I guess if you own a business, you can come
22 and go as you please, so I don't know.

23 Q Did you have any interaction with
24 him?

25 A I spoke to him maybe three times

1 A.B. Nelson

2 in two and three-quarters of a year.

3 Q Was Mr. Argyropoulous ever
4 present for any of the allegations that you
5 have made in the complaint in this action?

6 MS. LILBURN: Objection.

7 A Was he present?

8 Q Was he present to hear any of the
9 allegations that you made in the complaint?

10 A He's never around.

11 Q I understand that. Would you
12 agree that he was not around when these
13 statements were made?

14 A Yes, that's true.

15 Q The next question is why are you
16 naming him in this lawsuit?

17 A I named him in the lawsuit
18 because he is the head principal of this whole
19 organization, so this is his organization.
20 He's named in the lawsuit.

21 Q Do you believe that your basis
22 for naming Philip Argyropoulous is that he is
23 the head of Victory Auto Group and thus he
24 should be named?

25 A Named and responsible for people

1 A.B. Nelson

2 that work underneath him, the type of people
3 that work underneath him, and what goes on
4 underneath him.

5 Q I want to ask you about Diane
6 Argyropoulous. Why did you name her in this
7 lawsuit?

8 A Because she is a -- she's also an
9 owner of this organization, 30 percent.

10 Q Would your testimony be the same
11 about her as it was about Mr. Argyropoulous?

12 MS. LILBURN: Objection.

13 A No.

14 Q Was she present for any of the
15 allegations in the complaint?

16 MS. LILBURN: Objection.

17 A She was present, but it did not
18 happen in front of her.

19 Q Did you go to her and ask her or
20 tell her about it?

21 MS. LILBURN: Objection. Which?

22 Q I'm going to refer to her as
23 Diane. Okay?

24 A Yes.

25 Q We know who we are talking about,

1 A.B. Nelson

2 right?

3 A Right.

4 Q Did you go to Diane at any time
5 you heard any racial or age-related comment?
6 Did you go to her and say this was just said
7 and I want you to know?

8 A No.

9 Q Why not?

10 A Why not -- the reason for why not
11 is because we were instructed by Mr. Orsaris
12 to never go to Diane about anything having to
13 do with -- not to go to Diane other than hello
14 and good morning and greetings and stuff and
15 not to go to Diane.

16 Q On anything?

17 A Those were the instructions.

18 Q That was from Mr. Orsaris?

19 A That was from Chris Orsaris, yes,
20 sir.

21 Q What was his job at Victory? Do
22 you recall what his position was?

23 A I'm not sure if he was a
24 principal or just the general manager for the
25 store. I'm not sure exactly what it is, but

1 A.B. Nelson

2 he's the one underneath Diane.

3 Q Is he there all the time?

4 MS. LILBURN: Objection.

5 A Practically.

6 Q Do you know whether or not he was
7 an auto inventory buyer?

8 A He did buy cars. I witnessed him
9 buy cars online from Manheim Auction.

10 Q Did he have to go to the
11 auctions?

12 A He has gone to auctions, yes.

13 Q Is it your testimony that he was
14 present at Victory from the time you started
15 in 2016 to September of 2017, he was present
16 at Victory during that period of time?

17 MS. LILBURN: Objection.

18 Q Tell me if he was present at
19 Victory during that time?

20 A Something like April or March,
21 somewhere around there, okay, the beginning of
22 2016, you know, not the beginning beginning,
23 but a few months into the year.

24 Q Until September --

25 A Right up until now.

1 A.B. Nelson

2 Q He was there how many hours a
3 week, just take an estimate if you can?

4 A A lot of hours, maybe fifty,
5 forty-five, fifty, a hard worker, many hours
6 he put in.

7 MS. LILBURN: We've been going
8 for an hour and a half. Can we take a
9 break?

10 MR. HANS: I just want to get in
11 my full seven hours.

12 MS. LILBURN: It's seven hours on
13 the record.

14 MR. HANS: We started at 9:45.

15 MS. LILBURN: We can keep track
16 of the time. I'm not trying to cut you
17 short.

18 MR. HANS: No problem.

19 (Whereupon, at 11:10 a.m., a
20 recess was taken.)

21 (Whereupon, at 11:20 a.m., the
22 examination resumed.)

23 CONTINUED EXAMINATION BY MR. HANS:

24 Q Mr. Nelson, do you recall stating
25 I believe in your interrogatories, and I can

1 A.B. Nelson

2 get them if you don't recall, that you said
3 your performance was exceptional; do you
4 remember that?

5 A Yes.

6 Q That was a word that you used, I
7 believe, exceptional, correct?

8 A Was it in my interrogatory?

9 Q Let me show this to you. I will
10 find it as we go.

11 Would you describe your
12 performance as exceptional, sir?

13 A Yes, sir.

14 Q Is that your opinion or did you
15 receive something written from somebody at
16 Victory describing your performance there as
17 exceptional?

18 A They praised my performance as to
19 when customers have written comments as to how
20 well they were taken care of and how happy
21 they were making this purchase.

22 Q You say they, who is they?

23 A Customers. Do you mean as far as
24 who wrote it -- Chris Orsaris at times when
25 people have, you know, made responses to what

1 A.B. Nelson

2 their likings were of their purchase, and so
3 he has commented on it in a positive way.

4 Q How often were those comments
5 made?

6 A Most people who buy cars from
7 me -- every so often I would say. We would
8 ask the customer to write a review.

9 Q Do you have any proof other than
10 your testimony today that your performance was
11 exceptional?

12 A You can look on Yelp. I don't
13 have it with me because I'm not supposed to
14 have anything except what you are giving me.
15 Isn't that correct?

16 Q I don't answer questions.

17 A I don't know. You just asked me
18 a question if I had stuff and I don't have it
19 with me. I only have what you're giving me is
20 what I have.

21 Q Forgetting about what I gave you
22 or what I could give you, but do you have any
23 documentation, any written documentation, that
24 describes your performance at Victory as
25 exceptional?

1 A.B. Nelson

2 A Yes.

3 Q Where is that?

4 A It should be in the documents
5 that I sent you.

6 Q Can you identify the documents
7 that you sent me that describe your
8 performance as exceptional?

9 A It would be in the disclosures.

10 Q There were various document
11 demands and interrogatories. I'm asking you
12 to identify a specific document, whether you
13 gave it to me or not?

14 A Yelp.

15 MR. HANS: For the record, I do
16 not have any document from Yelp.

17 MS. LILBURN: In the production
18 there was a screenshot printout from
19 Yelp.

20 MR, HANS: I don't have it. Are
21 you talking about a document that was
22 produced? I don't have a screenshot of
23 that.

24 Q Mr. Nelson, can you identify a
25 screenshot from Yelp that describes your

1 A.B. Nelson

2 performance as exceptional?

3 A A screenshot?

4 Q Your attorney just stated that
5 there was a Yelp review that was produced in
6 discovery. I do not have that document. I am
7 at a loss of which document it is. Can you
8 describe that? Do you have a copy of it?

9 A I do not have a copy of anything.

10 MR. HANS: Counsel, do you have a
11 copy of it?

12 MS. ORTIZ: It is a three-page
13 document and it has Yelp in the upper
14 left-hand corner.

15 MR. HANS: Off the record.

16 (A discussion was held off the
17 record.)

18 Q Mr. Nelson, you said that you
19 were told by Chris Orsaris not to go to Diane
20 Argyropoulos; is that correct?

21 A That was told to everybody, not
22 only me, that any problems we had, we were not
23 to go to Diane with it.

24 Q And it was Chris Orsaris that
25 said that, right?

1 A.B. Nelson

2 A Yes, sir.

3 Q What happened before Chris
4 Orsaris worked there? Why didn't you go to
5 Diane at that time if you had an issue before
6 February of 2016?

7 A I did go to somebody about an
8 issue, but it was not the racial issue. The
9 issues that you're talking about started after
10 Chris and Alex came on board.

11 Q Did all the employees have access
12 to Diane?

13 A Did all the employees -- no. All
14 of the employees did not have access to Diane,
15 no.

16 Q Other employees, if they were to
17 come in here and testify that they had access
18 to Diane and they spoke to her and she spoke
19 to them and everything was fine, would they be
20 lying?

21 MS. LILBURN: Objection.

22 Q Yes or no? That is a yes or no,
23 sir. If other employees during that period of
24 time came in here and said they always had
25 access to Diane and Diane always had

1 A.B. Nelson

2 communications with them, would it be your
3 testimony that they are not telling the truth?

4 MS. LILBURN: Objection. Can you
5 clarify what you mean by access?

6 Q Access meaning access to her
7 about anything going on, whether
8 discriminatory comments or work issues,
9 anything going on. Would you say that they
10 would not be telling the truth and that you
11 could go to Diane?

12 A I don't know what they spoke to
13 her about, but we all say hello, but as far as
14 that goes, the cut-off was Chris for
15 everything, for everybody.

16 Q If these other people that worked
17 there came in and said they did have access to
18 Diane after February of 2016 about any issues
19 that they would go and talk to her, if they
20 testified to that, they would not be telling
21 the truth; is that your testimony?

22 MS. LILBURN: Objection.

23 A Is that my testimony?

24 Q Is that correct; yes or no?

25 A From where I am sitting, that is

1 A.B. Nelson

2 correct, as far as the issues go and not just
3 saying hi, how are you doing, but as far as
4 issues go.

5 Q Any issues you were not supposed
6 to go to Diane and all employees were
7 instructed that way, correct?

8 A We were instructed if we had any
9 problems with anything that we were to go to
10 Chris and I guess that meant his son or his
11 two sons or whoever. We were instructed not
12 to go to Diane with anything, period.

13 Q What was your relationship with
14 Phil?

15 A I met Phil -- I have seen Phil
16 come and go, you know, greetings like how are
17 you doing and eyeball contact with him. Maybe
18 the whole time I was there I may have had
19 three conversations with him, maybe.

20 Q So you weren't friends with him?

21 MS. LILBURN: Objection.

22 A Friends?

23 Q Were you friends with him?

24 A I'm not friends with anybody
25 except maybe -- I'm not friends with him, no.

1 A.B. Nelson

2 I'm not friends with him. What do you mean by
3 friends? Can you explain that?

4 Q Would you talk about, for
5 example, race cars with him?

6 A One conversation and that was it.
7 Is there anything you need to know about that
8 conversation. I'm just asking because I don't
9 want to say too much.

10 Q You don't get to ask the
11 questions. I ask the questions.

12 MS. LILBURN: He's asking you if
13 he answered your question.

14 A Is that the appropriate answer?

15 Q I don't decide what is
16 appropriate. You testified --

17 A Was it adequate, sir?

18 Q I don't answer questions, sir.

19 MS. LILBURN: He can ask you if
20 he answered your question.

21 MR. HANS: No. If I don't think
22 he answered, then I will follow up with
23 a question. That's how it works.

24 Q Let us go back to Mr. Orsaris.
25 In your EEOC complaint, Exhibit B that you

1 A.B. Nelson

2 have in front of you, you say that Mr. Orsaris
3 placed you in a hostile work environment; is
4 that correct? Do you see that in there, which
5 is on the fourth line?

6 A Exhibit C you said?

7 Q Exhibit B.

8 A B. I'm sorry.

9 Q On the fourth line down, you say
10 Orsaris placed me in a hostile work
11 environment. Do you see that?

12 A Yes.

13 Q Can you explain what you mean by
14 that?

15 A Basically what I do mean about
16 that is Mr. Orsaris creating hostility by one,
17 racial discriminatory, you know, saying things
18 to customers, screaming and hollering at me
19 for things that I did not do, come running
20 across the floor into a back office and accuse
21 me of using bad language on the floor when
22 actually it was Robert Taylor, the guy who
23 sits in front of me, and not even opening my
24 mouth and people saying but he's not saying
25 anything. Just, you know, focusing on ways to

1 A.B. Nelson

2 attack me which creates hostility.

3 Introducing me to a customer that I might be
4 going to explain certain features of a vehicle
5 and saying this is Tony Nelson, don't let him
6 talk you to death. What does that mean?

7 These are things that create hostility when
8 you disrespect a person in front of another
9 person and you don't even know that person, so
10 hostility, yes, going from the gas station
11 back, going forward, you know, making fun,
12 disrespectful remarks. Those things create a
13 hostile work environment. In other words, you
14 come to work and you don't want people trying
15 to make fun of you and goofing on you and
16 saying things about you. This is the hostile
17 environment that I'm speaking of.

18 Q Did that start from the time you
19 became employed there in February 2016?

20 A He excluded me, which I did not
21 know --

22 Q That is not my question.

23 A What's the question?

24 Q When he started his employment
25 there in February 2016?

1 A.B. Nelson

2 A I don't remember if it started
3 that week, but as we grew to know each other,
4 these things started to develop and started
5 like anything developed.

6 Q When you started describing the
7 hostility, am I correct to say that this
8 hostility was based on work-related activity
9 and behavior?

10 MS. LILBURN: Objection.

11 A Can you expand on that.

12 Q It was related to work issues; is
13 that correct, the hostility?

14 MS. LILBURN: Objection.

15 A Some of it is related to work and
16 some of it is not. It's just related to being
17 crude and rude to people.

18 Q In all the comments that he said
19 to you from the time you started to the time
20 you made the complaint in September of 2017,
21 other than the Uncle Ben and the Bill Cosby
22 comments, which we already talked about, were
23 there any other issues, the screaming and the
24 running and the accusing you of using bad
25 language, was any of that racial comments or

1 A.B. Nelson

2 age comments?

3 MS. LILBURN: Objection.

4 Q That you can remember.

5 A Some of them had to do with age,
6 which we spoke about earlier.

7 Q Other than what we spoke about
8 earlier, when you describe being placed in a
9 hostile work environment, can you identify any
10 specific time that you were placed in a
11 hostile work environment, a specific time and
12 a specific statement rather than generalizing
13 like you did?

14 MS. LILBURN: Objection.

15 A The only way to answer that
16 question is it is a generalization because it
17 happened so much, customer after customer.
18 Even a young lady that lives a block away from
19 me, customer after customer, like making an
20 introduction and then insulting your product
21 specialist in front of a customer. This is
22 for the Mitsubishi vehicles because, you know,
23 when a person buys a new vehicle, even if they
24 buy an old one, but --

25 Q Mr. Nelson, I appreciate what you

1 A.B. Nelson

2 are saying and I don't want to cut you off,
3 but I'm going to ask you to answer my
4 question. I will ask you the question again.
5 Do you remember any specific statements or any
6 specific time or location at Victory when Mr.
7 Orsaris conducted himself that way?

8 A Yes.

9 Q Can you be specific, please.

10 A The exact date? Are you asking
11 me to get specific and tell you dates? I
12 don't have anything to refer to. Is that what
13 you're asking me? I cannot give you exact
14 dates, sir.

15 Q You cannot give me exact dates?

16 A Right.

17 Q Can you give me exact statements
18 that he said that would support your statement
19 in this action. You said he placed you in a
20 hostile work environment. I am asking you,
21 rather than generalizing, tell me the
22 statements that were made? I understand you
23 cannot identify the time period that he made
24 it or specific times, so now I'm asking you
25 what were the words that he used?

1 A.B. Nelson

2 MS. LILBURN: Objection.

3 MR. HANS: What were the words he
4 used?

5 MS. LILBURN: Your question was
6 complex and long.

7 Q You described a hostile work
8 environment. You have testified to things. I
9 am asking you to be specific as to what he
10 said?

11 A Let's start. Go home and get
12 your gun.

13 Q Sir, I'm not asking you about
14 what is in your EEOC complaint and your
15 complaint. We are going to get to the gun
16 issue and all that in a little bit.

17 A But that's a statement.

18 Q Let me put it to you a different
19 way then. Is creating the hostile work
20 environment, is it based on what is in this
21 complaint, and if that is it, then that is
22 fine? Is this how he created a hostile work
23 environment?

24 A Partially, yes.

25 Q Tell me the one that is not in

1 A.B. Nelson

2 there?

3 A Okay. The times that he
4 introduced me to people and made jokes as he
5 was introducing me to them. That's numerous
6 times.

7 Q Tell me what he said?

8 A This is my Mitsubishi specialist.
9 Don't let him talk you to death, ha ha, and
10 then he would walk off. I don't understand
11 that. That to me --

12 Q Let me interrupt you. That
13 comment created a hostile work environment?

14 A Of course it does. Why would you
15 introduce a grown man to somebody and make
16 some snipid (phonetic) remark like that when
17 he is presenting a product for a blue chip
18 company who is your top guy. Why would you do
19 that?

20 Q Tell me other comments that were
21 said?

22 A He accused me of using profanity
23 on the floor when, in fact, it was actually
24 somebody else, but a lot of people have used
25 strong language on the floor. I am not one

1 A.B. Nelson

2 that uses it. He has accused me of that, yes.

3 Q When he accuses you of using
4 profanity, to you that creates a hostile work
5 environment; yes or no?

6 A Yes.

7 Q What else besides that? Was that
8 sufficient? You mentioned the incident with
9 the customer.

10 A The customers, plural.

11 Q Accusing you of using profanity
12 and what you have contained in your EEOC
13 filing. Is that in sum and substance the
14 hostile work environment that he created; yes
15 or no?

16 A So what do we have now?

17 Q Sir, it is not what we have. You
18 testified to him accusing you of using
19 profanity and introducing you the way you just
20 testified to customers and we have what is in
21 this paragraph, which we'll get to in a little
22 bit. Is that how he created the hostile work
23 environment; yes or no?

24 A Yes.

25 Q That's it?

1 A.B. Nelson

2 A Yes.

3 Q Now we know. I want to go back
4 to one thing you said before. You said
5 something about every customer and every
6 customer you saw, customer after customer
7 after customer. Do you remember that, sir?

8 MS. LILBURN: Objection.

9 A I did say that, yes.

10 Q You sued my client for something
11 horrible, something very bad, discrimination.
12 I am asking you, sir, do you have one
13 customer's name that would support that
14 allegation; yes or no?

15 MS. LILBURN: Objection.

16 A I can't answer that question.

17 Q Why can't you answer that
18 question?

19 A Because I have names, but I have
20 no idea if they would remember the situation
21 or even want to be bothered with it, so I
22 can't answer that question.

23 Q Mr. Nelson, I know up until this
24 deposition you had been representing yourself.
25 I am going to say this as kind as I can, but

1 A.B. Nelson

2 in the discovery demands, you were asked if
3 you have any witnesses to your complaints or
4 what you have set forth here. You did not in
5 your disclosures in this case, and up to this
6 point, ever identify the name of a customer,
7 so maybe that is an oversight, but there is
8 not going to be any oversight after today. I
9 am asking you flat out. Do you have the name
10 of a customer that is going to support you in
11 this case; yes or no?

12 MS. LILBURN: Objection.

13 A I don't know -- I don't believe I
14 know the answer to that question.

15 Q Sir, when you say you do not
16 believe you know, you need to explain to me
17 what you mean by that?

18 MS. LILBURN: Objection.

19 A What I mean by that?

20 Q What do you mean by that?

21 A When I mean by that is I might
22 know who one or two of those parties might be
23 and have their name and address. I don't even
24 know if they still live there anymore, but I
25 don't know if they would remember that.

1 A.B. Nelson

2 Q Can you identify the name of a
3 person who you think may be able to support
4 you in this case; yes or no?

5 A I will pass on that question.

6 MR. HANS: You want to call the
7 magistrate on this? Do you want to talk
8 to him and I will leave the room?

9 MS. LILBURN: What do you mean
10 you'll pass on it? Is it because you do
11 not know?

12 MR. HANS: You may want to talk
13 to your client alone on this.

14 (Whereupon, at 11:48 a.m., a
15 discussion was held out of the room
16 between Ms. Lilburn, Ms. Ortiz and the
17 witness.)

18 (Whereupon, at 11:54 a.m., the
19 examination resumed.)

20 CONTINUED EXAMINATION BY MR. HANS:

21 Q Mr. Nelson, other than the two
22 attorneys that are representing you today, did
23 you speak to anybody else during the break?

24 A During the break?

25 Q During the break that you were

1 A.B. Nelson

2 outside of the room, did you speak to anybody
3 else besides your two attorneys?

4 A Just the three of us. That was
5 it.

6 Q Listen to my question. I know
7 you were out there for a good five minutes
8 prior to my question. My question is that you
9 have referenced in your filings in this case,
10 you mentioned customers, and in your testimony
11 today you said customers would hear things
12 said about you and hostility and all of that.
13 What I am asking you is today, for any part of
14 this case, do you have the name of any
15 customers that will support anything you are
16 saying in this case that you plan to bring
17 into this case?

18 MS. LILBURN: Objection.

19 A Yes.

20 Q Why doesn't my client have the
21 name of that customer as we sit here today?

22 A I don't know the name, so yes. I
23 do, but I do not know the name.

24 Q What do you base yes, I do on if
25 you do not know the name?

1 A.B. Nelson

2 A What do I base it on?

3 Q That is the question, sir.

4 A I base it on that I can find out
5 the name.

6 Q How can you find out the name?

7 A How can I find out the name?

8 Q You keep repeating my questions,
9 sir.

10 A I can find out the name by
11 looking at my deals.

12 Q Does that mean you will recognize
13 the name or that you will call these people to
14 see if they know anything about the
15 allegations you have made in this complaint?

16 A Both. I will recognize the name
17 and I will call them.

18 Q Mr. Nelson, are you aware of the
19 fact that my client has given you over 200
20 pages of documents pursuant to your discovery
21 demands and everything that we have, including
22 those possible names, we have already given.

23 MS. LILBURN: Objection.

24 A Can you repeat that.

25 (Whereupon, at this time, the

1 A.B. Nelson

2 requested portion was read by the
3 reporter.)

4 Q You had a chance to review all
5 the discovery, which includes all of the names
6 of people that you have dealt with, all the
7 deals that you had been part of. It has all
8 been given to you in discovery, so you had a
9 chance to review it. I'm asking you today did
10 you review those documents to identify the
11 names of customers that you believe could
12 support your case?

13 A I looked at those documents, but
14 the addresses are not there. It's the
15 addresses that are key to finding those
16 people.

17 Q Do you believe that my client
18 absolutely has the address of the customer?

19 A Sure. I am not asking for it,
20 but sure. I am not asking for it. I probably
21 have it. I would have to look through my
22 deals.

23 Q Are you saying that you probably
24 have the information that will educate you as
25 to the names of customers that you believe may

1 A.B. Nelson

2 possibly support the allegations in the
3 complaint?

4 A Yes.

5 Q And you have those names, those
6 documents?

7 A I would have to -- the wage --
8 that group of documents is with the other law
9 firm.

10 Q Which other law firm?

11 A DePaul & Schaefer.

12 Q You believe that you could go
13 through the documents of deals that you were
14 part of and those documents will identify
15 customers that you would do what with? What
16 would you do with the names that you would
17 see? Would you call those customers?

18 A If need be so, because I don't
19 want to disturb people for our little
20 situation that's going on here, but if it is
21 absolutely necessary that I have to do that,
22 then yes.

23 Q What makes it necessary?

24 A What makes it necessary that
25 you're probably going to demand that I produce

1 A.B. Nelson

2 those names. That's what the conversation is
3 about right now, right?

4 Q Do you have those names?

5 A I'm sure that I do.

6 Q Why didn't you give them to us in
7 discovery?

8 A Why?

9 Q Yes.

10 A Maybe because it was an
11 oversight. I would have to say that. It was
12 overlooked. I did not know that we would
13 involve actual Mitsubishi customers and
14 inconvenience them. I just thought it was not
15 material to add that and to just go with
16 either witnesses or people that I worked with
17 and so that's the reason why. I just -- plus
18 the fact that most of those documents are in
19 the other wage allegation -- I mean litigation
20 or whatever is going to happen with that.

21 Q But you testified in this case
22 and in writing you said the customers were
23 witnesses to the discrimination that you are
24 claiming in this case; do you recall that?
25 You just testified to that, correct?

1 A.B. Nelson

2 A They're witnesses. Okay.

3 They're witnesses to the hostility part where
4 I am explaining to you how I was introduced to
5 customers, people I did not even know, how I
6 was introduced to them in the disrespectful
7 way that the introduction was done.

8 Q Is your testimony changing now in
9 the sense that the only thing the customers
10 were witnesses to was the disrespectful way
11 you were introduced or were they witnesses to
12 anything else?

13 MS. LILBURN: Objection.

14 A I cannot answer if they were
15 witnesses to anything else, but someone -- I
16 was actually introduced to someone -- a lot of
17 things happened and there were witnesses, yes,
18 but I don't know who witnessed what. I don't
19 know if it's my customer or other customers,
20 but I do know that the people that I had any
21 type of connection to, whether it was through
22 being introduced, you know, being introduced,
23 these things happened.

24 Q You said when I asked you do you
25 have the name of any customer that witnessed

1 A.B. Nelson

2 or heard any of the offensive statements, you
3 said I will pass and then you went outside to
4 speak to your attorney; do you remember that?

5 A I said I will pass because when I
6 asked you -- your question to me was would
7 they -- your question to me in that yes or no
8 question, you're asking me if a person is
9 going to speak on my behalf and how would I
10 know that.

11 Q No. That's not my question. I
12 will ask it again. This time you may not have
13 to pass.

14 Do you, as you sit here today,
15 have the name, forget the address, the name of
16 one customer that you know that will support
17 any of the allegations you have made in this
18 complaint, including your testimony here
19 today?

20 MS. LILBURN: Objection.

21 A What do you mean by support?

22 Q Any customer that will testify on
23 your behalf in this case about anything that
24 you have said?

25 MS. LILBURN: Objection.

1 A.B. Nelson

2 A I am not sure what they would do,
3 so that's why I said what I said. Yes, I do
4 have names, but I don't know if they will.

5 Q I would like you to give us the
6 names right now.

7 MS. LILBURN: Objection. He said
8 he did not know the names as we sit here
9 now.

10 MR. HANS: He just said he does
11 have the names.

12 MS. LILBURN: He said he has
13 names in his possession.

14 MR. HANS: I'm going to ask you
15 to stop.

16 MS. LILBURN: I'm just trying to
17 help clear this up.

18 MR. HANS: Don't you testify.
19 You know that is ethically improper.

20 Q Mr. Nelson, I am asking you if
21 you actually have the names of possible
22 customers?

23 A Yes.

24 Q What are those names?

25 A I don't know the names. I don't

1 A.B. Nelson

2 have it in front of me.

3 Q Why do you say that you have it?

4 A Why do I say I have it?

5 Q Yes.

6 A I say I have it because when I do
7 a deal and I get their insurance for them and
8 all of that, I have most of the bills of sale
9 for the customers that I sold cars to. A copy
10 of it wrapped up with some of the documents --
11 the bill of sale, a copy of their insurance
12 and all of the things that are needed in case
13 upstairs needs to go back to the deal, so I
14 have deals and I have customer information, so
15 on memory, on recollection, okay, and one of
16 them lives down the street from me, so I know
17 her address, okay.

18 Q Who is that person?

19 A I said I don't know the name. I
20 have to do it by address. I just said that
21 like ten times already. I would have to look
22 at the documents.

23 Q Is what you're saying today is
24 you believe customers will support you and you
25 have names, but you don't know which customers

1 A.B. Nelson

2 would and which customers would not?

3 A Yes. I did say that.

4 Q Is that your testimony today?

5 A You're saying that.

6 Q I'm asking you a question, sir,
7 and I will repeat it. Is what you are saying
8 today is you have a list or papers that
9 identify customers that you have dealt with
10 that you believe can possibly support your
11 case and you will have to check with them to
12 see if they would; is that true or not?

13 A It's true, yes.

14 Q Have you talked to one customer
15 about the allegations that you made in this
16 complaint; yes or no?

17 A No.

18 Q Do you have contact information
19 for any of these customers?

20 A I would have to look through the
21 documents.

22 Q How long would it take you to
23 look through the documents and identify which
24 customers you think would support your case,
25 how many days will it take?

1 A.B. Nelson

2 A I don't know, Tuesday, Wednesday.

3 Are we counting the weekend --

4 Q So by Tuesday or Wednesday of
5 next week --

6 A Let's say Wednesday of next week.

7 Q By Wednesday of next week, you
8 will be able to identify the names and any
9 information you have about any customer that
10 would support your allegations in this
11 complaint?

12 A If I find those documents, yes.

13 Q If you don't find those
14 documents --

15 A Then I will let you know.

16 MR. HANS: Off the record.

17 (Whereupon, at 12:00 p.m., a
18 discussion was held out of the room
19 between all the attorneys.)

20 (Whereupon, at 12:09 p.m., the
21 examination resumed.)

22 CONTINUED EXAMINATION BY MR. HANS:

23 Q Mr. Nelson, with respect to these
24 customers, are they customers that actually
25 purchased vehicles or gave information to

1 A.B. Nelson

2 Victory, or are they customers that just
3 happened to walk into the place and did not
4 give any name or anything else?

5 A These are customers that
6 purchased vehicles. That's why I have a
7 record of documents to look at to provide
8 those names for you.

9 Q Is it your testimony that you
10 would look at all these documents and what
11 would cause you to remember that a certain
12 customer may have heard something that is
13 relevant in this case?

14 A I would have to look. I don't
15 know.

16 Q What would be on that document
17 that would trigger you the ability to say this
18 customer would know?

19 A The address of one particular
20 one.

21 Q What county is that address?

22 A Bronx.

23 Q Do you know what area in the
24 Bronx this person lives?

25 A Northeast Bronx.

1 A.B. Nelson

2 Q Do you know what street?

3 A At the moment, no.

4 Q Do you have anything at home that
5 would give you that information?

6 A I don't know.

7 Q What is it about these documents
8 that you would be able to look at that you can
9 pair it up with the comments that were made by
10 Mr. Orsaris?

11 A Because it will refresh my
12 recollection and then I would know.

13 Q What would refresh your
14 recollection, the name of the person or the
15 deal?

16 A It's a Mitsubishi deal.

17 Q We understand that. When you see
18 the name, would that name say that's the time
19 that Mr. Orsaris --

20 A Yes.

21 Q So the name would trigger your
22 ability to remember Mr. Orsaris's hostile
23 comments?

24 A I don't know what would trigger
25 it. I don't know what mechanism would trigger

1 A.B. Nelson

2 it because I have not done it yet.

3 Q How would you be able to look at
4 the records of customers and say this customer
5 heard Mr. Orsaris say what he said? How can
6 that happen if the names do not trigger
7 anything to you?

8 MS. LILBURN: Objection.

9 A Maybe it's the address that will
10 trigger it. Maybe it's the vehicle that will
11 trigger it. It can be anything that can
12 trigger it. It can be numerous things that
13 can trigger the identity of the customer that
14 we are speaking of.

15 Q Have you to this day talked to
16 any customer of Victory?

17 A Sure. Some of them are friends
18 of mine.

19 Q About this case?

20 A About the case?

21 Q Yes.

22 A I mentioned it.

23 Q To who?

24 A The gentleman I sold the Jaguar
25 to.

1 A.B. Nelson

2 Q What is his name?

3 A His name is James. I don't know
4 his last name.

5 Q When did you talk to James?

6 A He called me up to complain that
7 his car was a lemon. He called me on my cell
8 phone.

9 Q Do you still have that phone
10 number?

11 A I don't know. I can get it for
12 you if you want it by next Wednesday. I can
13 get it for you along with the rest of the
14 stuff.

15 Q I wish you would.

16 A Sure.

17 Q Did you talk to this fellow named
18 James about the allegations you have made in
19 this case?

20 A Not in detail.

21 Q Did you discuss it at all?

22 A I discussed it because he
23 wondered why I wasn't there and I told him
24 there was a lawsuit going on, a wage lawsuit,
25 and I have a discrimination case, you know. I

1 A.B. Nelson

2 have a Title 7 lawsuit.

3 Q What did he say to you?

4 A He said I'm sorry to hear that or
5 something to that effect. I don't remember
6 exactly. He called me about his car and not
7 about my problems.

8 Q Is he supporting you as a witness
9 in this case?

10 A I did not say that he was. I
11 never asked him about that. I did not ask him
12 to support me as a witness in any case.

13 Q Did he volunteer any statement
14 other than what you just testified to?

15 A No. We talked about his vehicle.

16 Q So we have an agreement by next
17 Wednesday that you will be able to give us the
18 names and addresses of any customers that you
19 believe will support your allegations,
20 correct?

21 A Yes.

22 Q Have you made any calls to any
23 customers canvassing any customers to see if
24 they would support you?

25 MS. LILBURN: Objection.

1 A.B. Nelson

2 A I did not want to disrespect the
3 customers by involving them in this, so no. I
4 have not made any calls. I tried to have some
5 type of courtesy. They came to buy a car and
6 not to get involved, so I have not called
7 customers. The only calls I got were
8 customers calling me with complaints about
9 certain things, but I have not reached out to
10 people and asked them to support me in this
11 litigation.

12 Q You said in Exhibit B, you said
13 with respect to Alex Lettas that he would make
14 racially motivated statements about people of
15 color.

16 A Yes.

17 Q Are you referring to Mr. Lettas's
18 statement about the Uncle Ben and the Bill
19 Cosby statement which is in that complaint?

20 A I'm referring to all of Alex
21 Lettas's constant statements being the Rodney
22 Dangerfield of racist jokes in the store.

23 Q When I questioned you before, you
24 said that the racial comments that were made
25 were limited to Uncle Ben and Bill Cosby and

1 A.B. Nelson

2 the niggerative statement, correct?

3 MS. LILBURN: Objection.

4 Q Are you testifying that there are
5 more statements than what you put in your
6 complaint and your EEOC?

7 A I believe we were talking about
8 Chris at the time.

9 Q We were not talking about Chris.
10 We were talking generally speaking. Is it
11 your testimony that there were more than these
12 comments that you have, more comments made
13 about race than what you have in your
14 complaint?

15 A Yes.

16 Q By whom?

17 A By Alex Lettas.

18 Q What did he say that is in
19 addition to what is in the EEOC complaint?

20 A What kind of racial comments?

21 Q Yes.

22 A Let me see. Let me start
23 thinking of some. You're eating your lunch
24 and you have fried chicken. He comes up or he
25 comes over and he says to you what are you

1 A.B. Nelson

2 eating, fried chicken. Is that relevant to
3 your race. Let me see what else. The store
4 buys cars from people. They're online on
5 different -- Kelly Blue Book, Car Purchaser.
6 For some reason he could not buy this amazing
7 BMW and him and this fellow somehow they got
8 into it, whatever. They disagreed upon stuff
9 and the guy left. As I walked across the
10 street to carry the mail from that store over
11 to the other side of the street, he was
12 walking with me, and because he flagrantly
13 says things about minorities, he said that
14 fucking spic and I turned around and I looked
15 at him and I had something to say about that.

16 Q This is all Alex Lettas, right?

17 A Yes. It's a bunch of Alex Lettas
18 stuff. It's a bunch of stuff.

19 Q What is a bunch?

20 A You have it in the discovery
21 stuff that I sent you.

22 Q Are you talking about the
23 responses to the first set of interrogatories?

24 A Documents. You have it.

25 Q Let us go through it. I show you

1 A.B. Nelson

2 what was marked as Exhibit E. I am giving you
3 D and E.

4 A Yes.

5 Q Looking at your responses to the
6 defendants' interrogatories on Page 4,
7 Subsection D, the third paragraph --

8 A Is that Exhibit E?

9 Q Those are the responses,
10 plaintiff's responses, Exhibit E. Go to Page
11 4.

12 A Yes.

13 Q You will see a paragraph there
14 where you start to talk about Alex Lettas's
15 offensive comments. You mentioned some of the
16 comments in here that you just testified to,
17 but you also said, and I want you to be sure
18 of this answer, you said this, meaning these
19 comments, were witnessed by Mia Giller, Erica
20 Zoungrane, Brian, David Ramos and Juan
21 Palanco.

22 Is it your testimony that those
23 individuals know that those statements were
24 made?

25 A Yes, they do.

1 A.B. Nelson

2 Q Have you talked to any one of
3 them about being a witness in this case?

4 A I spoke to them about being a
5 witness.

6 Q Who did you speak to?

7 A Not only did I speak, but there
8 were text messages also, which would be Mia
9 Giller, Erica.

10 Q Do you have a text message with
11 Erica?

12 A I don't have any text messages
13 with Erica, no.

14 Q Did you speak to Erica?

15 A Yes, I did.

16 Q Is Erica supporting you in this
17 case?

18 A She does not want to get
19 involved. I'm just saying who was a witness.

20 Q You said she did not want to get
21 involved. What about Brian. Did you speak to
22 Brian?

23 A Yes, I did.

24 Q What did he say?

25 A He said he would, but he fell off

1 A.B. Nelson

2 the face of the earth and we do not know where
3 he is.

4 Q And David Ramos?

5 A He witnessed it. I am not saying
6 that he would get involved because maybe his
7 job is on the line and maybe he just does not
8 want to get involved.

9 Q And Juan Palanco?

10 A Juan Palanco will speak on my
11 behalf and I just spoke with him last week.

12 Q I am sure he will. Are you aware
13 that Juan Palanco is also suing Victory for
14 wages?

15 A Of course. I'm very much aware.

16 Q What is contained in that
17 paragraph that we just referenced are the
18 racially-motivated statements by Mr. Lettas;
19 is that correct?

20 A Those are some of them. There
21 are dozens of them. I just put enough that
22 you would know. It's not that I added every
23 one, but there's plenty of them.

24 Q How often would he make racially-
25 motivated comments?

1 A.B. Nelson

2 A He would say something every day
3 of the week if he could say it.

4 Q I am not asking if he could say
5 it, but did he say it?

6 A Yes, once a day and sometimes
7 twice a day.

8 Q Are there any other witnesses to
9 the twice a day statements than the people
10 that you have identified in that paragraph?

11 A There might be, but I think I was
12 only allowed a certain amount of people, a
13 certain amount of witnesses, so those that I
14 can recall are the ones that I put in there.

15 Q I am not your lawyer, but I can
16 tell you that there is no limit on the amount
17 of witnesses in a case.

18 A Thank you.

19 Q I'm going to ask you today. Do
20 you have any additional witnesses besides the
21 ones that you have listed here with respect to
22 Mr. Lettas?

23 A I can safely say yes. There
24 might be one or two others.

25 Q When you say it safely, does that

1 A.B. Nelson

2 mean you know the names?

3 A Not at this time. I don't know
4 the names at this time.

5 Q Then why would you say safely I
6 have additional names?

7 A Because so many people have come
8 and gone through the doors that I cannot
9 remember right this very second, you know, to
10 produce names for you right now based on that
11 question.

12 Q You used the word safely, not me.

13 A I did.

14 Q So you felt confident that you
15 know that there's somebody else besides these
16 people that know that Mr. Lettas made these
17 comments?

18 A Yes.

19 Q How soon would you be able to
20 identify anyone else?

21 A I will try to have that by the
22 same day as the other stuff.

23 Q By this coming Wednesday?

24 A Yes.

25 Q You will be able to identify the

1 A.B. Nelson

2 name and address of anybody else, correct?

3 A Your client will have to produce
4 the address. Now it's not Wednesday because I
5 have to put more time on this because after I
6 give you the names, you're going to have to go
7 into --

8 Q Let us leave Wednesday as the
9 date when you will give us the names and you
10 give us whatever address you may have, and if
11 you don't, we will take it from there. Is
12 that an agreement?

13 A Yes.

14 Q And you are going to serve that
15 on my office by email on Wednesday?

16 A The names?

17 Q Correct.

18 A Yes.

19 Q With the other information that
20 you said you will have on Wednesday?

21 A Right, the Mitsubishi customer,
22 right.

23 Q Do you have any other evidence of
24 Mr. Lettas's comments other than what you
25 testified to just now?

1 A.B. Nelson

2 A I found an old phone and it had a
3 video and I kept that video. It's Mexican
4 babies practicing to climb the wall on the
5 Texas border.

6 Q Why do you not have a copy of
7 that video?

8 A Because I just found that phone.
9 That phone was messed up. Actually, it wasn't
10 in working condition.

11 Q Let me stop you here. You found
12 the phone belonging to who?

13 A It's my phone. I have multiple
14 phones.

15 Q And you have a video in there?

16 A Yes.

17 Q Of Mexican babies, you said?

18 A Yes.

19 Q Why is that video on your phone?

20 A Because people send stuff to
21 people.

22 Q So this is a video that was sent
23 to you; yes or no?

24 A Yes.

25 Q Who was it sent to you by?

1 A.B. Nelson

2 A I believe it was sent by Alex.

3 Q You believe?

4 A Yes, because he's the one that
5 showed me. It's not only that one. Any video
6 of stuff like that, that was all Alex Lettas.
7 I don't look up those kinds of videos. I have
8 no interest in that.

9 Q The phone that you just found,
10 that phone that you found, does that reveal
11 who the video was sent by?

12 A I don't know. What happens is,
13 when somebody sends you a video, you can save
14 it.

15 Q I'm going to ask for production
16 of that phone.

17 MR. HANS: Counsel, you may want
18 to get involved in this because I want
19 to inspect the phone, and I believe it
20 should be under your auspices.

21 MS. LILBURN: If it is a
22 discovery dispute, I am happy to help
23 Mr. Nelson, but it is outside the scope
24 of our representation.

25 MR. HANS: I would want to view

1 A.B. Nelson

2 the video and the phone and then I may
3 want to have an expert look at it.

4 THE WITNESS: I can see if I can
5 get it put on a stick. It's my phone.
6 I want you to know that.

7 Q If you are telling us today that
8 you intend to use that video in this case,
9 then my input on that phone is relevant.

10 A I'm willing to share the video
11 with you off the phone just like the text
12 messages.

13 Q It does not work like that.

14 A It just did a few weeks ago.
15 What happened now?

16 Q It does not work that way because
17 of this. If you have a video that you intend
18 to use in this case, I want to have, at a
19 designated time and place under stipulation,
20 possession of that phone to have an expert
21 examine it.

22 A That phone may have some pictures
23 of my mother's death on it, her funeral.
24 There's a lot of personal stuff on that phone
25 that I don't feel I have to share with you

1 A.B. Nelson

2 because of this case, but I will share the
3 information with you. I will meet you
4 halfway. I will share the information with
5 you, and if that is a problem, I will send the
6 judge a letter, Monday morning, and explain to
7 him what you are trying to do.

8 MR. HANS: You're not going to
9 get involved in this dispute, Counsel?

10 MS. LILBURN: This conversation?

11 MR. HANS: No. What I want, if
12 your client intends to use that video in
13 this case, which I have not seen, you
14 know and I know that I have a right to
15 have an expert examine the phone. Any
16 lawyer knows that. I am not sure he
17 understands my right to do that if he
18 intends to use the phone. I have no
19 interest and I have great respect for
20 his family and the private videos or
21 private photos that are on that phone.
22 I don't quarrel with it. I don't want
23 to see it. I don't want anything to do
24 with it and the expert has no interest
25 in that either. What I would want to do

1 A.B. Nelson

2 is take the phone and have an expert
3 examine the video and where it came from
4 that he intends to use before a jury in
5 this case.

6 THE WITNESS: With me present?

7 MR. HANS: I don't know if that
8 happens or not. We will see what the
9 judge says.

10 Are you going to jump in on this
11 or not?

12 MS. LILBURN: I am not contesting
13 that you have a right to inspect the
14 phone. You guys have been sharing
15 information and he has technical
16 limitations obviously. His concern is
17 whether or not you have access to
18 material that is not relevant.

19 MR. HANS: We probably have to
20 bring this to the magistrate because if
21 he does not want to release the phone or
22 want to be around when it is examined, I
23 guess that's something we will have to
24 navigate.

25 MS. LILBURN: We can talk how he

1 A.B. Nelson

2 technically will obtain the information,
3 but I'm not disputing that you do have a
4 right to view it.

5 Q Mr. Nelson, do you have any other
6 evidence other than the video, other than the
7 comments that you just testified to today, and
8 what you put in your papers in this case of
9 Mr. Lettas's racially-motivated statements?

10 A Any other statements -- can I
11 interject on that question for a second. Can
12 I say something?

13 Q You can respond to my question.
14 Do you have an answer, sir?

15 A Do I have any other statements
16 other than this?

17 Q That is right, other than what
18 you placed down in that paragraph?

19 A There are other statements, but I
20 just don't know all of them right now.

21 Q Would you be able to take the
22 time between now and Wednesday so that you can
23 confirm and finalize any statements with
24 respect to this case?

25 A Yes.

1 A.B. Nelson

2 Q And you will send that to my
3 office by email?

4 A Right.

5 Q From 2015 to the time that you
6 filed your EEOC complaint in 2017, do you know
7 if there were any other black employees at
8 Victory Auto; yes or no?

9 A Yes.

10 Q How many?

11 A Probably 65 or 70 percent of the
12 staff might be black or Hispanic or black and
13 Spanish people.

14 Q Do you know if any of them filed,
15 during any time of their employment filed a
16 complaint, whether informally or formally,
17 with being treated wrongfully because they
18 were black?

19 A I don't know that.

20 Q Do you know if any of them
21 complained about hearing any racially-
22 motivated statements?

23 A Yes.

24 Q Who did that?

25 A Robert Wood.

1 A.B. Nelson

2 Q What is it that Robert Wood
3 complained about?

4 A Robert Wood complained about --
5 do you mean as far as the statements go -- he
6 complained about age statements. He
7 complained about Alex's statements.

8 Q Who did he complain to?

9 A We're sitting there, you know.
10 He comes by and says something stupid.

11 Q Who is he?

12 A We're talking about Alex Lettas.
13 If I'm sitting there at my desk, which
14 actually happened to be in front of Robert
15 Wood's desk, because I sat there for about
16 maybe a year or so, and then people get moved
17 around a lot, but the thing is many a times
18 he's being disgruntled in his remarks about
19 statements that are either made by Alex or
20 statements that were made by other people
21 about age and things of that nature.

22 Q Robert Wood said that?

23 A Yes, Robert Wood.

24 Q Did you take any statement from
25 Robert Wood?

1 A.B. Nelson

2 A I have not taken a statement from
3 Robert Wood. I do not talk to Robert Wood.

4 Q Have you talked to Robert Wood
5 about this case at all?

6 A Yes, I have.

7 Q What did you say to Robert Wood?
8 Let me put it to you this way.

9 MS. LILBURN: Objection.

10 Q Isn't it true that you tried to
11 get Robert Wood to join this case; yes or no?

12 MS. LILBURN: Objection.

13 A No. Robert Wood, back in April
14 of 2016, while he was sick in his house up in
15 Connecticut, he was so fed up with different
16 things going on that he mentioned suing
17 whatever or, you know, whatever. He was
18 disgusted.

19 Q He was disgusted with Victory?

20 A Yes.

21 Q And he talked about suing
22 Victory?

23 A He mentioned it. He was supposed
24 to meet me to go to the other law firm, DePaul
25 & Schaefer. I'm just trying to gather my

1 A.B. Nelson

2 thoughts, and he basically stood me up. He
3 told me he was on his way to the train. He
4 stood me up in Grand Central Station. When I
5 got to 28 Liberty Street, he never showed up.
6 Then he made an appointment with them and he
7 never showed up. He would flip-flop back and
8 forth. He was disgusted because we could not
9 get into -- we were blocked out of the
10 Mitsubishi intra-site, just numerous things,
11 and he is the one who spearheaded the idea,
12 you know, because in conversation, you know
13 what, maybe I should -- I would say why do you
14 drive down here if you don't like it. I am
15 forced to work here because it's near my
16 house. I don't have transportation. I am
17 here, but you, you're talking about it, so how
18 many dealerships did you pass between here and
19 Connecticut, so basically he is not the
20 creator of this, but he is pretty much the
21 creator of this.

22 Q Do you know when he started
23 working for Victory?

24 A He started working for Victory --
25 I was there before him. He may have come on,

1 A.B. Nelson

2 like so many people came and went, but he's
3 been there for quite a while.

4 Q Was he pretty upset about the
5 racial treatment at Victory?

6 MS. LILBURN: Objection.

7 A Any time you're going to hear
8 something like that, I don't care who you are.
9 Even if you're on the street, you're going to
10 get upset when you hear denigrating stuff like
11 that.

12 Q I'm going to ask you again
13 because it is unclear. Did you ask him to
14 join you as a plaintiff in this case?

15 A In this case?

16 Q Yes.

17 A I can't remember if that came up,
18 but I would say more than likely I probably
19 did, since he's the one --

20 Q What did he say to you?

21 A He just changed all of a sudden.
22 He just changed. I don't want nothing to do
23 with this. I don't want to deal with these
24 fucking lawyers and all this shit. This is
25 the Robert Wood conversation, you know.

1 A.B. Nelson

2 Q What did you say back to him?

3 A There was also a conversation
4 about the fire track where all the people who
5 worked downstairs -- let's call the Fire
6 Department, this and that and the other. Do
7 you understand. There was always some
8 conversation about these different things, so
9 when Alex would come through there and show
10 some stupid racist video or something or say
11 something, you know. This is ongoing.

12 Q Did you take any written
13 statement from him or record a conversation
14 with him?

15 A Did I take any written statement
16 from him --

17 MS. LILBURN: With Robert Wood?

18 MR. HANS: Yes.

19 A I might have recorded a
20 conversation. I would have to look at that
21 phone because, like I said, it's an old phone
22 and, you know, I might, yes.

23 Q Did you not know about this phone
24 when you complied with the discovery in this
25 case?

1 A.B. Nelson

2 A I did not have the phone at the
3 time. It was missing.

4 Q But it's the same phone?

5 A It's not the same phone.

6 Q It's a different phone?

7 A I have different phones, yes. I
8 mentioned that earlier.

9 Q So you have a second phone that
10 could --

11 A I have three phones. There's
12 another one that I know is lost and I will
13 never get back.

14 Q We now know you have two phones
15 in your possession that may be relevant in
16 this case. One has a video that we talked
17 about that we're going to probably have to get
18 the court's assistance on for an expert to
19 examine it, and the second phone that you have
20 has a recorded conversation with you and
21 Robert Wood; is that correct?

22 A Yes.

23 Q Do you plan to use that recording
24 in this case; yes or no?

25 A I'm not sure. It's not about the

1 A.B. Nelson

2 racial stuff conversation.

3 Q What is it about?

4 A Maybe you should call the Fire
5 Department, but don't call from your phone.

6 Q Was there anything in that
7 conversation spoken about with respect to race
8 or age?

9 A I would have to review it.

10 MR. HANS: I would want to get a
11 copy of that, and if you intend to
12 utilize that recording, I want a copy no
13 matter what and I want it from the
14 phone. If you're not willing to give us
15 the phone and have an expert examine it,
16 we can add that on to the application.

17 THE WITNESS: Then have the
18 expert remove the stuff in front of me
19 right off the phone. It's very easy.

20 Q Anybody else hear Alex Lettas's
21 statements other than the witnesses that you
22 have identified in Exhibit E or D and Robert
23 Wood?

24 A Yes, but I would not know who a
25 lot of them are because there are different

1 A.B. Nelson

2 sections and different buildings, but in the
3 witness statement, it's on there.

4 Q On where?

5 A You have the text messages.

6 Q What are you talking about?

7 A If other people heard it, the
8 racial stuff. It's on the text messages that
9 you have in one of those exhibits. I don't
10 know.

11 Q You gave my office copies of text
12 messages.

13 A I just saw them.

14 Q The text messages that you
15 produced in discovery, that was a conversation
16 between Alex Lettas and Mia Giller, correct?

17 A No. Those are conversations with
18 Alex Lettas -- about Alex Lettas to me from
19 Mia Giller.

20 Q Other than Mia Giller, which has
21 been identified as a witness, are there any
22 other witnesses besides Robert Wood, who is a
23 new witness today that you now say along with
24 the people that you identified in the
25 interrogatories? Is there anybody else who

1 A.B. Nelson

2 knows what's going on with these racial, age
3 comments?

4 A I'm sure there are. I will say
5 yes. I can't identify them right now. I have
6 to go through the employee list and look at
7 the schedule and then I will realize because
8 that schedule shows me -- we are bunched up,
9 you know, ten of us at one place and eight or
10 nine of us at another place.

11 Q Would you be able to identify by
12 Wednesday the names of any other witnesses in
13 addition to what you have already identified?

14 A Yes, and I will send that to you.

15 Q Did Alex Lettas's statements or
16 words affect your performance on the job or
17 your health?

18 MS. LILBURN: Objection.

19 MR. HANS: What's the objection?

20 MS. LILBURN: Compound.

21 Q Let us do one at a time. Did the
22 words and statements affect your performance?

23 A Yes.

24 Q How did it affect your
25 performance?

1 A.B. Nelson

2 A What it does is when somebody
3 makes those types of statements, you get
4 pretty mad. You want to do something about
5 it, but now you're sitting there like a powder
6 keg because you've been disrespected, so now
7 instead of focusing on what you're doing,
8 you're focusing on all this outside
9 interference.

10 Q How has that affected your
11 performance?

12 A It affects your performance
13 because now you don't want to work because now
14 you've been pulled down to the carpet with
15 idiotic remarks, disrespectful statements, so
16 forth and so on, and now, you know, they try
17 to take the wind out of your sails every time
18 they can do it.

19 Q Would you agree that it makes
20 your performance less than optimal?

21 MS. LILBURN: Objection.

22 Q Would you agree that it makes
23 your performance less than satisfactory?

24 MS. LILBURN: Objection.

25 Q Yes or no?

1 A.B. Nelson

2 A When it happens, it can be less
3 than satisfactory. When things are okay and
4 nobody is acting ridiculous and disrespecting
5 people and you're having a nice day, no.

6 Q Which happened more, the good
7 days or the bad days?

8 A The bad days because constantly,
9 not only that, distractions also, a lot of
10 distractions and a lot of different projects,
11 which I'm sure you will get to that and I
12 don't want to overstep you.

13 Q We know that Alex Lettas's
14 comments affected your performance. Would you
15 say substantially?

16 MS. LILBURN: Objection.

17 A Sure.

18 Q And that happened more often than
19 not, would you agree?

20 A Alex or both of them put
21 together?

22 Q Both of them put together?

23 A It happened quite a bit.

24 Q Earlier today you said, and it is
25 in your papers and I can find it, you said